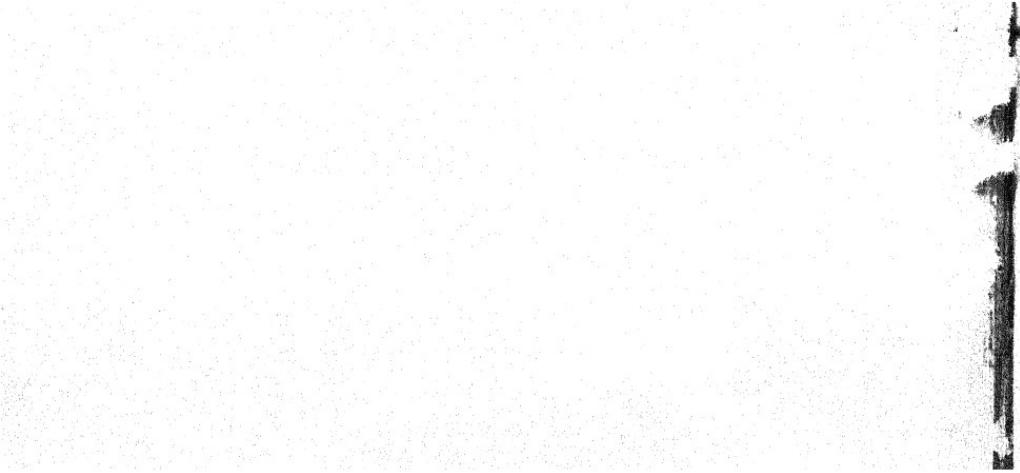


**STATE MACHINERY FOR
MUNICIPAL SUPERVISION**

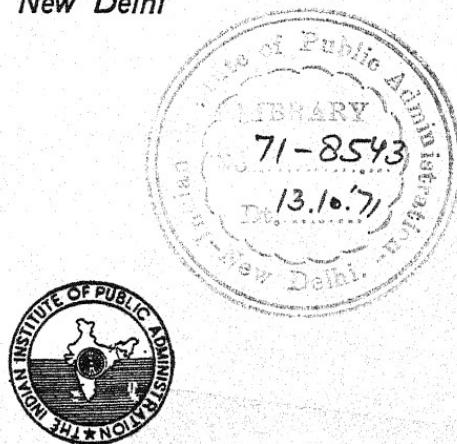


State Machinery for Municipal Supervision

Proceedings of the Seminar

May 7 to 8, 1970

New Delhi



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Centre for Training & Research in Municipal Administration

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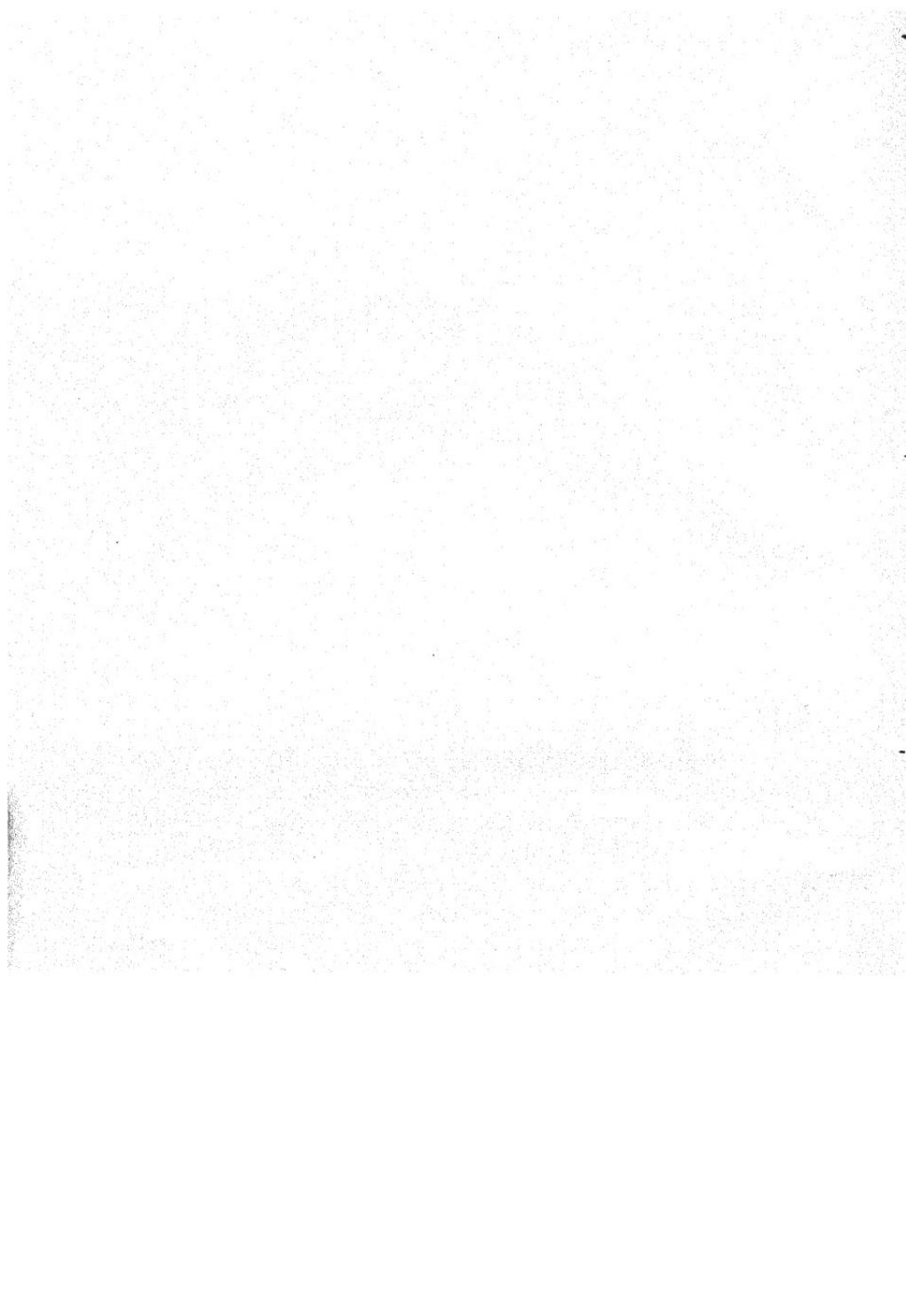
PREFACE

Since its inception about four years ago, the Centre for Training and Research in Municipal Administration has been regularly organising seminars on specific topics relating to municipal government and administration. The present volume represents an edited version of the proceedings of one such seminar on the subject of 'State Machinery for Municipal Supervision' held in the IIPA during May 7-8, 1970. The State governments are constitutionally responsible for framing legislations on municipal government and exercising control over the municipal authorities. In the present-day context, what is needed is not so much of control as guidance and assistance, since our municipal bodies, specially the smaller ones, are bedevilled by all kinds of problems—legal, administrative and financial. Unfortunately, however, not much thought has been given to the organisation of a suitable State machinery that could keep in constant touch with the problems of the municipalities and come to their timely rescue. Currently, a number of State governments have been constituting their Directorates of Municipal Administration for this purpose. This seminar took note of the recent developments in State administration and tried to evaluate the role of the State governments in relation to the administration of 'municipal government'. It is expected that the deliberations of the seminar would be of some use to the State governments that are presently seized with the problem of reorganisation of their administrative machineries dealing with the municipal authorities. Dr. Mohit Bhattacharya of the Centre for Training and Research in Municipal Administration deserves thanks for carefully editing this volume and writing the introduction. I take this opportunity to extend my thanks to all the participants but for whose help and cooperation the seminar would not have been successful.

G. MUKHARJI
Director

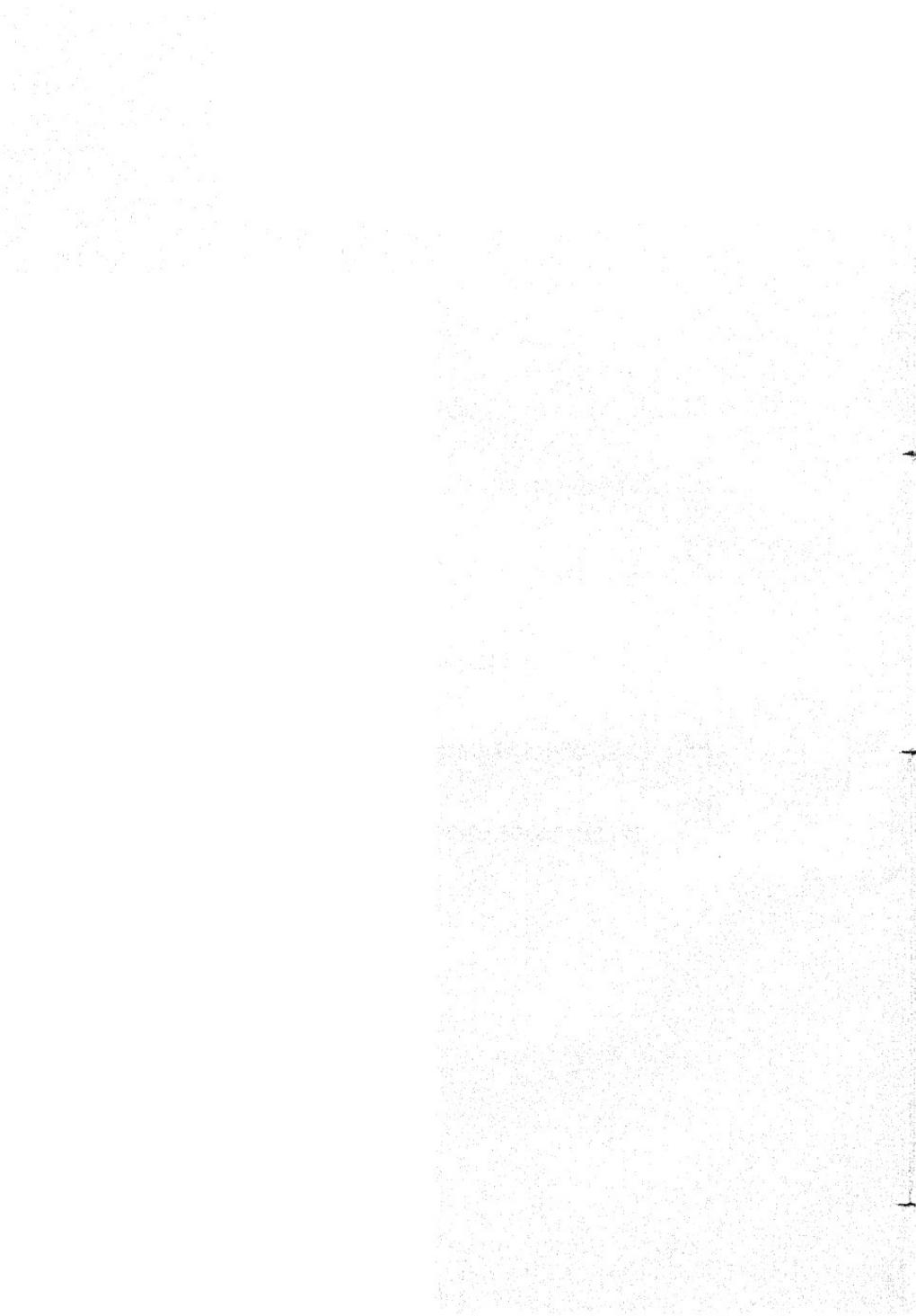
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CONTENTS

	Pages
PREFACE	
1 INTRODUCTION	1
2 PROCEEDINGS	6
APPENDICES	
A LIST OF PARTICIPANTS	57
B WORK PROGRAMME	59



1

INTRODUCTION

In recent times the State governments have evinced considerable interest in improving municipal administration. Any attempt to streamline municipal administration would obviously call for the creation of a proper State machinery for supervision and guidance of the municipal bodies. In 1966, the Rural-Urban Relationship Committee of the Government of India extensively reported on the machinery for control and supervision of the urban local bodies. In the light of these developments, discussions are needed on the vital problem of building up a suitable State machinery for both framing long-range strategic policies on municipal government and ensuring improvement in the operational efficiency of the municipal bodies.

The general practice in our country is to have at the State level a Secretariat Department charged with specific functions. The Department has a Minister at the top, and below him a permanent Secretary heads the Secretariat organisation. The latter has usually under him Deputy and Assistant Secretaries or Under Secretaries. State practices do, however, vary from place to place. Some States such as Punjab, Rajasthan and West Bengal have each a Department of Local Self-Government dealing exclusively with municipal administration and allied urban institutions such as the Improvement Trust. On the other hand, States like Andhra Pradesh, Gujarat and Maharashtra have each a multi-functional Department which has 'municipal government' as one of its many responsibilities.

It has been felt that the problems of the municipal bodies are of such nature that these need to be attended to very promptly and there should be a State machinery which would be in constant touch with the municipal bodies. The Secretariat organisation is

more often looked at as a policy-framing organ and many a time an overworked Secretariat organisation has been found to be unable to promptly come to the rescue of the ailing municipalities.

If the inability of the Secretariat in dealing promptly with the multitudinous problems of the municipal bodies is true, what kind of machinery can be evolved to supervise, assist and guide the municipal bodies? The problem essentially boils down to the creation of a field-level machinery which would constantly be in touch with the municipal bodies. Two well-known methods of dealing with the field-level problems of the municipal bodies are: (i) to use the age-old machinery of district administration, and (ii) to have an inspectorate with a necessary complement of field staff. Regarding (i), the District Officer has virtually been dissociated from municipal government since the days of the Montagu-Chelmsford Reforms. It has also been pointed out that he has his hands full as he has to deal with a whole range of functions relating to revenue administration, law and order, relief and other developmental responsibilities. In spite of this, the District Officer is being used for the purpose of exercising control and supervision over the municipal bodies in a number of States such as Rajasthan, Gujarat, Maharashtra, Punjab and Haryana.

Inspectorate has been in operation in some States like Bihar, West Bengal and Tamil Nadu. In fact, the Tamil Nadu Inspectorate is headed by a senior officer and is reportedly very active and vigilant. Inspection in these States is, however, of a very general nature; it is intended to probe into the working of the municipal authority as a whole. It has often been alleged that the spirit of inspection is generally inquisitorial and rarely advisory and promotional. In the absence of any clear idea about its role and purpose, inspection often degenerates into a perfunctory ritual.

A number of State governments have, in recent times, set up a special organ known as the Directorate of Municipal Administration. The principal reasons for setting up the Directorate are a general dissatisfaction with the existing State machinery for municipal supervision, the need for reducing the congestion of work at the Secretariat level and the utility of a well-equipped State machinery which would act as a bridge between the municipalities and the State level administration.

The establishment of the Directorates of Municipal Administration has been hailed in many quarters as a step in the right

direction. But, it has also raised a number of problems. It has been pointed out that so long as the district administration is there at the field level, it is difficult to justify a separate machinery like the Directorate. Secondly, it has been argued that what the municipalities need most is assistance or aid in functional matters, and not just general advice and guidance. But the Directorate can do little to help them in this regard. Thirdly, the regulatory and punitive powers vested in the Directorate have been criticised on the ground that these should properly belong to the 'Government' rather than to the Directorate which is just an agency of the Government.

There is no doubt that in the Indian situation, where municipal government is beset with myriad problems, State supervision and guidance are of paramount importance to increase the operational efficiency of the municipal authorities. In such a context, the need for organising a proper State machinery for exercising supervision and rendering timely advice and guidance can hardly be exaggerated.

To have a more meaningful discussion, the subject of 'State Machinery for Municipal Supervision' can be divided into four broad aspects:

- (i) legal basis of municipal government,
- (ii) state level organisation,
- (iii) state functional departments and municipal bodies, and
- (iv) district administration and municipal government.

Each aspect highlights a major problem area. It will be useful, therefore, to briefly dwell on them by turn.

LEGAL BASIS

It is customary to refer to entry 5 of List 2 of the Seventh Schedule of the Indian Constitution to defend the powers of the States over their local bodies. But, conceived as 'government', apart from being a corporate authority, does a local self-governing institution, such as a municipal corporation, possess any inherent power which supports its 'autonomy'? Under the French constitutional law, the local authorities are inseparable organs of the state. Contrastingly, the English local authorities are treated as self-governing institutions with 'wills' of their own, distinct from the 'will' of the state. Since municipal government in India was modelled on the English pattern, can the English conception

be invoked to defend municipal autonomy? Another pertinent question is: what bearing the spirit of the Indian Constitution has on the status of municipal government in this country? In discussing the organisation of the State machinery for municipal supervision, the status of municipal government in law (and in theory) is expected to set a limit to the powers which the proposed machinery may wield.

STATE LEVEL ORGANISATION

The second aspect concerns the role of the State level house-keeping department in relation to municipal government, *i.e.*, the Local Self-Government Department. It is the Local Self-Government Department which is charged with the responsibility of controlling and supervising the affairs of the municipal authorities. Hence, the structure and working of this Department would have to be closely examined. Quite often, this Department functions with the help of an inspectorate or a directorate. Their relationship with the Department and their organisations and operations need also to be considered in evolving a suitable State machinery for municipal supervision.

STATE FUNCTIONAL DEPARTMENTS

The State level functional departments, such as those in charge of public works, health and medical services, education and the like deal directly with the municipal bodies. This gives rise to a number of problems. How can the diverse relationships of these departments be harmonised and coordinated in order that the municipal area as a whole can be developed in a balanced way? It may well happen that the State level house-keeping Department, *i.e.*, the Local Self-Government Department, would like to see the municipal bodies grow in a particular way, but a functional department, such as the Education Department, may have a diametrically opposite view of local government. How can such divergent attitudes to municipal government be reconciled? This is a problem which is often overlooked; but in dealing with the question of State machinery for municipal supervision, it needs to be carefully considered.

DISTRICT ADMINISTRATION

The key role of the district organisation in State-run field

administration is well known. Away from State headquarters, the municipal bodies fall within the jurisdiction of a district and are physically closer to the district organisation. In any discussion on the State machinery for municipal supervision, the role of the district administration has to be carefully defined. Can the district machinery be put to use for this purpose? Alternatively, if some other agency is conceived, what should be its relationship with the district machinery? How far is the existence of the latter conducive to the growth of local self-government? Are the two types of institutions compatible with each other? These and related problems came up for discussion in the seminar and the participants discussed these with surprising candour in a bid to evolve a suitable State Machinery for Municipal Supervision.

2 SUMMARY OF PROCEEDINGS

INAUGURATION

The Seminar was inaugurated by Dr. J. N. Khosla, Director of the Indian Institute of Public Administration. Dr. Khosla started by thanking Professor Mukharji, Director of the Municipal Centre, for giving him this opportunity to share with the seminar participants some of his views on the subject of State supervision of municipal bodies. Before concentrating on the seminar subject, he extended his sincere thanks to the distinguished participants in the seminar. Turning to the subject he observed that the choice of this particular topic was facilitated by a research project completed in the Municipal Centre. The research findings had since been published in the form of a book entitled *State Directorates of Municipal Administration*. Since the days of the Simon Commission, Dr. Khosla continued, there has been intermittent thinking on the necessity of a well-equipped State level machinery for the control, supervision and guidance of the municipal authorities. The State governments have greater responsibilities in developing their machineries for control and supervision. At a stage in our constitutional evolution, local government was taken to be a school of public education in the democratic process of government and the emphasis was necessarily more on the educational aspect than on the efficiency aspect. After Independence and later with the inauguration of the five-year plans it was generally accepted that the municipal bodies had an important role to play in the development and maintenance of the local infra-structure such as roads, water-supply, drainage, education and so on. It is rather unfortunate, pointed out Dr. Khosla, that the principle of municipal development has not

received the attention it deserves. It is from the point of view of the healthy growth of the municipal bodies that the problem of constituting a suitable State machinery for municipal supervision has to be considered. Dr. Khosla observed that there was lack of constructive thinking on the role of municipal government in our country and there was a tendency to treat the municipal authorities as second grade institutions either to be left alone or occasionally admonished. It goes to the credit of the Rural-Urban Relationship Committee constituted by the Government of India to give considerable thought to the question of evolving a suitable machinery at the State level for municipal administration and supervision. Dr. Khosla also referred to the emergence of the Directorate of municipal administration in different States for undertaking the responsibility of supervising and guiding the municipal authorities. In this connection, he mentioned that the organisation and functions of these newly constituted Directorates were to be carefully watched. In the course of their operation the Directorates posed a number of important problems which should not be lightly brushed aside. For instance, what should be the relationship between the Directorate and the Secretariat? How will the Directorate function at the field level in relation to the district administration? Dr. Khosla expected that many more questions would be raised in the course of the deliberations in the seminar. He mentioned about another vital matter which, in his opinion, was to be carefully considered in suggesting the shape of the State machinery for municipal supervision. Municipal government constitutes an integral part of our overall democratic political framework. The essential purpose of State machinery, he observed, is to foster and develop municipal democracy and not to throttle it by extending unnecessary control. No doubt, he said, it is a delicate and difficult task, but in evolving a proper State machinery for control and supervision this goal of State control should not be forgotten.

After the inaugural address by Dr. Khosla, Prof. Mukharji, Director of the Municipal Centre, briefly explained the main purpose of the seminar. He pointed out that on the one hand the general control and supervision of the State Directorate of Municipal Administration were to be considered and on the other the seminar should also deal with the problem of functional relationships between the State functional and technical departments and

the municipal authorities. Also, he said, there might be States where the Directorates did not exist and the form of State machinery for control and supervision was different from the Directorate. It will be useful, he said, if the participants could confine themselves to these basic problems. He observed that the goal of State supervision was not something negative—directed merely toward keeping the municipalities within the bounds of laws and rules; it must be positive and oriented toward healthy development of municipal self-government.

MORNING SESSION (May 7, 1970)

The morning session started with Shri Balraj Khanna, the Deputy Mayor of the Delhi Municipal Corporation, in the Chair. Shri Khanna requested Dr. S. N. Jain, the acting Director of the Indian Law Institute to present his paper on the "Legal Basis of Municipal Government". Dr. Jain thanked the Chairman for inviting him to present his paper and continued: The Constitution of India defines the structure, powers and functions of the States but it is completely silent with regard to these matters in relation to municipal government. Entry 5 of the State List in the Seventh Schedule of the Constitution gives power to the States to legislate on the constitution and powers of local government. Therefore, the local governments in India do not derive any power of authority from the Constitution. They are to be created by a statute passed by a State. It is to the statute one has to look for their organisation, powers and functions. There exists two kinds of statutory provisions for creating a municipality. Either the statute itself may establish a municipality like the Delhi Municipal Corporation Act, 1957 or the statute may give power to the State Government concerned to create a municipality for an area, like the U.P. Municipalities Act, 1916.

A municipality is the creature of a statute and as such it is separate from the executive branch of the government. Statutes invariably provide that a municipality shall be a body corporate having perpetual succession and a common seal with power to acquire and dispose of property, and may sue or be sued in its name. A municipality, technically speaking, is not part of the State government. A municipality does not enjoy the privileges

and liabilities of the State government mentioned in the Constitution or other enactments. For instance, a municipal government does not enjoy the immunity from the tort liability as does a State under Article 300 of the Constitution. Article 311 of the Constitution does not apply to the municipal governments as the employees of the municipal government are not civil servants. Municipal governments also do not enjoy the benefit of Section 80 of the Civil Procedure Code which requires giving of two months' notice to the government before a suit against it is filed. Further, the privilege of the government, under Section 123 of the Indian Evidence Act, not to procure its unpublished record does not seem to apply to the municipalities.

The functions discharged by the municipalities could as well be discharged by the State government by expanding its area of operation. The reason for creating a statutory body is to decentralise administration and to establish an autonomous body separate from the government, and independent of its control in day-to-day matters. The basic purpose of establishing a statutory body is lost if there is too much interference in its working by the State executive. A number of public corporations have been created by the Central Government for carrying on commercial and industrial activities with this end in view. This is also the prevailing consideration in creating municipalities through a statute. However, as against other public corporations, the structure and organisation of a municipality are conditioned by the fact that it is an institution to fulfil the aspirations of the local community to participate in the democratic processes.

There is nothing inherent in the powers of a municipality. The extent of its powers as well as the extent of governmental control over a municipality depends on the statute creating a municipality.

The statutes creating municipalities confer large powers on the State government to control and supervise the functioning of the municipalities. There appears to be several reasons for this control by the State government. Firstly, the Constitution does not demarcate the powers and duties of the municipalities. Because of lack of clear demarcation, it seems necessary that the municipalities be controlled by State governments so that there is no overlapping in the functions of the two and that there is some coordination between their activities. Secondly, the quality of

municipal administration is at a low level generally and it is necessary that there is some control by the State government to see that municipal administration does not abuse its power and authority and that the administration does not deteriorate beyond a certain level. Thirdly, the State government gives financial assistance to the municipalities and it is essential to see that the funds are properly utilised.

However, in controlling the municipalities by the executive, two factors must not be lost sight of. Firstly, municipalities are democratic institutions consisting of representatives elected by the local community. In controlling the municipalities, this democratic process should not be subjected to the executive whim of the State government. Secondly, they are autonomous bodies and their autonomy should not be too much interfered with. These factors necessitate that in the exercise of the executive control of the municipalities, there should be mutual consultation between the government and the municipality and that the State government should be concerned with laying down general principles or broad policies. Too much interference will affect their autonomy and frustrate the basic purpose of creating a municipality.

It is not possible said Dr. Jain, in this brief paper to go into the details of various types of control exercised by the State government over the municipalities. Just by way of listing these controls, it may be said that the State government exercises control over the municipalities in the following ways: promulgating rules, requiring approval of bye-laws framed by a municipality, exercising control over recruitment and dismissal of superior officials, appointment of auditors, hearing of appeals in certain matters, giving directions and suspending or superseding a municipality. In exercising some of these controls, it is essential that a municipality has some safeguards against the abuse of power by the State government. The question of safeguard may here be considered with reference to two types of controls: one with regard to dissolution and supersession of the municipalities and the other with regard to the issue of directions by the State government.

Invariably, the municipal statutes provide for the supersession, removal or suspension of a municipality by the State government in case it considers that the municipality is incompetent to perform its duties or is inefficient or there is mal-administration. Statutes often provide for hearing to be given to the municipality

concerned before taking action. The provision for hearing acts as a check against the abuse of power by the State government. There are, however, instances where no such opportunity is required to be given. Thus Section 53(a) of the old C.P. and Berar Municipalities Act, 1922 provides for the suspension of a municipality for a maximum period of 18 months, but the statute does not provide for any hearing to be given to the municipality. In other situations where statutes have no provision for hearing before taking administrative action, the courts have often imported the requirement of hearing by holding the function to be quasi-judicial. However, in *Radhey Shyam vs. State of Madhya Pradesh* (A.I.R. 1959, S.C. 107) it was held that no hearing need to be given to the municipality for taking action by the State government under section 53-A of the C.P. and Berar Municipalities Act, 1922. The case does not seem to have been correctly decided and after 1965 the courts have been taking quite a liberal attitude towards holding an administrative function to be quasi-judicial.

Apart from superseding or suspending the municipality, there is also provision in the municipal enactments for the removal of members of a municipality. Thus Section 7 of the old Punjab Small Towns Act, 1921 provides that "the State Government may remove any member of a committee who in its opinion is unfit to act or persistently remiss in the discharge of his duties as a member". Here also the court has held the function to be administrative [*Negi Bal Bahadur Singh vs. Lt. Governor, H.P.* (A.I.R. 1962, H.P. 68)], but again the case does not seem to represent the correct law.

Municipal enactments often contain a provision, continued Dr. Jain, which empowers the State government to issue directions to the municipalities. Thus Section 487 of the Delhi Municipal Corporation Act, 1957 provides for the issue of directions by the Central Government, if the latter is of the opinion that the Corporation is performing its duty in an imperfect, inefficient and unsuitable manner. The section provides the Corporation an opportunity of being heard before the issue of directions, unless there is necessity for taking immediate action. This is quite a drastic power. The question may be raised as to what kind of directions could be issued under such a provision. If the government issues directives which interfere with the day-to-day administration of the Corporation, it will affect its autonomy and defeat

the purpose for which the Corporation has been established. Only directions of general nature laying down broad or basic policies to be followed by the Corporation could be and should be issued under such a provision.

The municipalities are creatures of the statute and are incorporated bodies. This raises the question whether the method of judicial review which applies in their case is different from the method of judicial review against a government. In principle, Dr. Jain observed, there is hardly any difference between the two. Firstly, as in the case of the government so also in the case of a municipality, right of judicial review has to be expressly given in the statute incorporating a municipality. In the absence of a statutory provision, the courts would not have the power of hearing appeals against the decisions of the State government *vis-a-vis* a municipality. There appears to be hardly any provision in any municipal statute providing for appeal against the various types of control imposed on the municipalities by a State government. Therefore, under the ordinary provisions of law, the courts would not interfere in the matter of government action. Secondly, another question relates to the applicability of the Constitutional jurisdiction of the courts under Articles 32 and 226 of the Constitution. It has been held that the writs of mandamus, certiorari and prohibition could be issued against the municipalities and also against the government at the instance of a municipality. How far can the courts under this power check undue interference by the State government over municipal administration? In a few situations the courts may give relief, though, by and large, this would not be true. For instance, in the matter of approval of bye-laws, appointment of senior staff, etc., the courts will be helpless if the government wrongly refuses to give approval. However, in the matter of supersession and suspension of a municipality, the courts may give relief if the function is held to be quasi-judicial which is likely to be so. As far as the issue of directions is concerned, the directions will not have statutory force and these are normally matters of internal arrangement between the State government and the municipality. If a municipality refuses to observe a direction, no individual can move a court to enforce it; it will be for the State government to take such action as it considers necessary in such a case. However, as Dr. Jain concluded, if the municipality is taking action on a direction issued by the State

government for which it has no legal authority and an individual is adversely affected by such action, he may move for quashing the action of the municipality based on such a direction (cf. Rowjee vs. State of A.P. A.I.R. 1964, S.C. 962).

After the presentation of the paper by Dr. Jain, the Chairman invited comments from the participants. The first speaker observed that Dr. Jain's paper was mostly of a factual nature and generally non-controversial. He said that local bodies were of various types—big, medium and small. The differences in the size of authorities, he said, should be kept in mind in any discussion on government control over the local bodies. Smaller municipal bodies which could hardly be distinguished from the village panchayats required to be controlled and guided by the State government. On the other side, there are the bigger bodies like the Municipal Corporation of Delhi which assumes the size of a small State and has its dignitaries and functionaries holding high positions. The speaker held that the big corporations should not be treated in the same way as the small municipal committees. Although there are legal provisions for the issue of directives to the municipal corporation by the government, there is hardly any instance of such directive being actually issued by it. On the other hand, he remarked, the budgets of the municipal committees would be sent to the Divisional Commissioner or Deputy Commissioner for scrutiny and approval. The speaker was not in favour of assigning a constitutional status to the local bodies. Regarding the legal basis of municipal government, he observed that although certain provisions of the Constitution such as Article 311 did not apply to the municipal employees. His feeling was that during the last few years the position of municipal employees had been going up to be at par with that of the government servant. The Government conduct rules applied to the municipal employees but the Industrial Disputes Act was also being applied to them, which led to increasing trade union activities among the municipal employees. These contradictions, he observed, needed to be resolved. The Speaker desired that the State and industrial governments should review their statutes and try to narrow down the differences that existed between the government employees and the municipal employees, who had to be given equal protection. Commenting on the executive control over the municipal bodies, he observed

that the control was exercised on the ground that the quality of municipal administration was generally low. Presently, he reflected, even administration at the Central and State levels was not above board and in exercising supervision over the municipal bodies the higher level governments should remember that everybody was living in a glass house and there was no point in throwing stones at each other. Regarding financial assistance from the State government, the speaker said that there should be a Finance Commission to determine the financial relationship between the local bodies and the State government and the local bodies should be allowed to tap more financial resources from the urban population.

The next speaker observed that the Constitution did not contain any separate list of powers to be exclusively exercised by the local bodies. In his opinion the nature of local government remained undefined in this country because of adherence to the conception of the corporate authority. He wondered if the word "government" attached to the local bodies would make any difference in the relationship between the State government and the local authorities. In this connection the Speaker referred to the Report of the Simon Commission which, he said, mentioned about two types of local government namely the Continental type and the British type. The Commission wanted to point out that the main purpose of British Administration in India was to evolve the British type of local government. In France, a local body is in the real sense an organ of the State and a single will passes through all the institutions—Central and Local. Thus he observed, there are provisions in French Municipal Law which provide for strictest state control over the municipal authorities. These controls—supersession, default action, prior sanctions, etc.—are inherent in the French Constitutional law. On the contrary, the speaker said, under the British Constitutional law, a local body is not simply a creature of state statute; it had a will of its own derivable from the local electorate which support it. He observed that State-municipal relationship in India has to be considered in the broader context of democratic, constitutional government in the country.

Another speaker drew attention to Article 40 of the Constitution under which the village panchayats were sought to be established as local self-governing bodies. He pointed out that

although there was some discussion on the constitutional status of local government in the Constituent Assembly, local government was not assigned a status similar to that of the Central and State governments. He maintained that most of the present difficulties about the relationship between the State governments and the local bodies arose from the fact that there was no Constitutional protection given to local government. State interferences, he said, are of two main types. There are political interferences which often stood in the way of the autonomy of the local bodies. The second type of interference is intended not to improve the efficiency of the local bodies but to prevent them from doing something. It was negative in nature. The speaker observed that State supervision and control should be oriented toward the building up of a good and sound municipal administration.

The next participant agreed with the views expressed by an earlier speaker that State-municipal relations with reference to bigger corporations and municipalities should be on a different footing. He said that curiously enough when there would be a genuine case for intervention by the State government, the latter would often falter because of the political and financial implications of such action. In his opinion, the municipal authorities suffered from chronic shortage of funds and this gave to the State governments a handle for intervention. He also referred to the idea of democratic decentralisation which, he felt, had to be unequivocally accepted, and State-municipal relationship would have to be viewed differently. Under a scheme of genuine democratic decentralisation, local autonomy needed to be preserved and promoted. The speaker remarked that we should free ourselves from the ideas of pre-Independence Colonial days and try to accept local government as part of the governmental system of the country. The State governments, he pointed out, had their own problems and they were not efficient either. So, control by such State governments was of little help. He concluded by saying that it was time that we should take a clear stand about the role of local government in this country and State supervision and control would have to be related to the overall conception of local government.

Next speaker wondered whether the seminar should consider the existing condition of the local bodies, or there should be some discussion on an ideal pattern of local government. He referred

to the situations which compelled the State governments many a time to issue directives and even supersede the local bodies. He felt that to induce the local bodies to work in a particular direction called for some amount of control by the State government.

Another speaker dealt with the actual nature of State-municipal relationship in Tamil Nadu. He said that the State Government of Tamil Nadu was not in the habit of interfering with the day-to-day administration of the municipalities. Only when a municipality would pass a resolution beyond its power and jurisdiction then the State government would intervene. He mentioned about the State government's financial assistance to those municipalities that were trying to implement water supply and other local projects. He described in brief the system of clearance of audit objections by the municipalities with the active help and assistance of the State government. In this opinion, State supervision was necessary to strengthen municipal administration. As regards judicial control, he observed that under the laws, the municipalities were free to move the courts and even sue the government.

Dr. Jain, in reply, observed that so far as judicial control was concerned the municipalities could act only under Article 226. However, he said, that the courts would not in general go into the question of facts and in such circumstances the State governments naturally had an upper hand. He felt that local autonomy would depend mostly on the good sense of the State governments, and there should be a tradition of showing respect to local autonomy. Interference should be the exception rather than the rule.

The next participant retorted that it was not possible to depend on the good sense of the State government, as the political situation at the State level was fast changing. In his opinion, municipal government needed to be safeguarded by the inclusion of a separate list of powers and functions of the municipal bodies in the Constitution itself. He observed that supersession was not the answer to the malady and even when a municipality would be superseded there should be a provision in law that the period of supersession should not exceed two years.

The next speaker pointed out that till 1965, supersession was being looked at by the courts as an administrative action. After

1965, however, there seemed to be a change in the attitude of the courts and supersession was increasingly being regarded as quasi-judicial. He posed the question: how should we make a distinction between a quasi-judicial and an executive situation?

Dr. Jain tried to clarify by saying that there was a lot of confusion about this distinction, and the courts were not always very clear whether a particular function was of judicial or administrative nature. He felt that before clamping down supersession, a municipality should be given an opportunity to explain its position; it should be given a hearing. As regards constitutional provision for the powers of local government he thought that this would not improve matters; for, the State governments would have to be given some discretion in the matter of control and supervision of the municipal bodies.

Another participant observed that there were certain difficulties in the incorporation of a separate list of powers of local government in the Indian Constitution. In his opinion, the fundamental question was one of acceptance of certain norms regarding the relationship between the two types of government. He maintained that it would be desirable to have a kind of instrument of instruction about those clauses in the municipal Acts which provide for State interference. This would help the municipal authorities to understand the circumstances which might lead to interferences.

The next participant remarked that the State governments and the local bodies should work as partners in a common endeavour to raise the standard of living of our communities. Unfortunately, he felt there was a tendency to reduce the municipal authorities to the position of insignificant subordinates. In his opinion, local government should be assigned a Constitutional status which would add to its prestige. He remarked that supervision and control should actually emanate from the local electorate. The local people who depend for their existence on the local body would be the fittest to control the local body. Supersession, he observed, was in most cases politically motivated and the prerogative of supersession should go to the Governor of a state and not to the government. It would be better if the Governor could set up a separate commission to enquire into the situation prevailing in a municipality and then decide about the future course of state action.

Referring to the powers of the State, the next speaker observed that municipal government was at the mercy of the States. He pointed out that the Himachal Pradesh Government had enacted a law replacing the Simla Municipality by a Corporation whose members were all nominated by the State government. He did not agree with the viewpoint that a separate provision should be made in the Constitution for the powers and functions of local government. In his opinion, it was not possible to separate the functions of the local bodies from those of the State governments. He remarked that the main problem today was not the provision for a constitutional status for local government but the proper and efficient performance of functions that were assigned to the local bodies. At the State level, he said, wide powers were vested in the hands of the State departments to intervene in the affairs of the local bodies; but there was hardly any well-equipped machinery for the proper exercise of these powers. Thus, State intervention would rarely take place at the right time and at the right spot. He thought that a vigilant and active state machinery would be able to help the municipalities and evolve a healthy relationship between the state government and the municipal bodies. Thus, he felt that the seminar should concentrate more on the Constitution and organisation of a proper State machinery for municipal supervision and guidance, since the municipalities badly needed assistance and guidance and constructive supervision at the right time.

The next speaker observed that it was not impossible to find out methods for a constitutional safeguard for the local bodies. In this connection, he referred to the situation in the United States of America where the local bodies enjoyed substantial freedom without being affected by frequent State interventions. He also mentioned about the constitutional conventions in the U.S.A. where the relationship between the State governments and the local bodies would be discussed and methods for removing difficulties would be sorted out. As regards a separate list of local taxation for exclusive use by the local bodies, the speaker drew attention to the Government of India Act, 1919, where such a provision was actually made. So he felt that it was possible to work out a separate list of functions and taxation for the local bodies. One of the earlier speakers sought to clarify his statement by saying that when he pleaded for a separate constitutional provision for local government, what he actually meant was the insertion of

some protective Articles to ensure that local government could not be completely eliminated by the machinations of the State governments.

The next participant, who had also spoken earlier, observed that so long as the provision was there for the supersession of a State government by the Union President, it would be difficult to run away from local government supersession by the State governments. The most important question for consideration, he thought, was how this power would be exercised and what safeguards should be provided to prevent its misuse.

Dr. Jain intervened to say that if we could find precise and articulated principles to regulate the relationship between the local bodies and the State government, he would like to have canons of relationship codified. But, in his opinion, the major difficulty was to evolve such precise principles. Another participant thought that it was not possible always to consider Union-State relationship in the same way as State-local relationships. When a State government would be superseded, the main cause would be that the State machinery of government was impossible to operate in accordance with the constitutional provisions. So far as bigger local bodies such as municipal corporations were concerned, the speaker was ready to concede that in their case one could imagine the insertion of emergency clauses in the Municipal Acts to ensure that supersession would take place only when there was a constitutional breakdown at the municipal level. But the speaker felt that in the case of a large number of smaller local bodies, similar considerations might not hold good.

At this stage the Chairman intervened to say that State-local relationship had to be differently conceived in the case of bigger local bodies such as municipal corporations. The smaller local bodies, he felt, should receive guidance from the State governments and perhaps there was some need for State intervention in their working also. Even then the Chairman observed that quite often interventions were merely on political grounds and he thought that some safeguards should be there against these kinds of wanton interferences. The Chairman also said that supersession should, as far as possible, be avoided and even when a local body would be superseded, there should be re-election, within say, about six months. He remarked that if in the bigger corporations like the Municipal Corporation of Delhi a Mayor-in-Council

form of government would be introduced, the question of super-session might not arise at all.

AFTERNOON SESSION

(May 7, 1970)

The afternoon session started with the Mayor of Surat in the Chair. The Chairman requested Dr. M. Bhattacharya of the Centre for Training and Research in Municipal Administration to present his paper on "State Agency for Municipal Supervision". Dr. Bhattacharya pointed out that the main purpose of the seminar was to suggest a suitable State machinery for the supervision and control of the municipal authorities. He wanted to raise certain issues in this connection. Dwelling on the State level organisations in operation at the present moment, Dr. Bhattacharya continued: A general practice in India in State administration is to have a Secretariat Department charged with specific functions. The Secretariat, which is essentially a policy-framing organ, is presided over by a Minister who is answerable to the Legislature. Below the Minister, the Secretariat Organisation is headed by a permanent Secretary with Deputy and Assistant Secretaries working under him. After the emergence of Panchayati Raj, the general pattern is that in almost all the States a Secretariat Department deals with municipal government and administration. There are, however, variations in the organisation of these Secretariat departments. For instance, some States such as Punjab, Rajasthan and West Bengal have each a Department of Local Self-Government dealing exclusively with municipal affairs. Again, States like Andhra Pradesh, Gujarat and Maharashtra have each a multi-functional department at the State level with municipal government as one of its many charges. At the Secretariat level, the multifunctional Department in Andhra Pradesh is called the Health, Housing and Municipal Administration Department. Similarly, Maharashtra has constituted a combined department known as the Department of Urban Development, Public Health and Housing. The corresponding department in Gujarat is the Panchayat and Health Department which combines both Panchayati Raj and Municipal Government. No doubt there are obvious advantages in gathering a number of allied functions under a particular department. Especially, under the Indian situation where public health functions loom

large in local administration, there is advantage in combining municipal administration and public health functions in one Secretariat department. This is exactly what the States like Andhra Pradesh, Gujarat and Maharashtra have tried to do.

In recent times, went on Dr. Bhattacharya, there has been a growing concern about streamlining the State machinery for control, supervision and guidance of the municipal bodies. Many of the problems faced by the municipalities are of such nature that these need to be attended to very promptly. The weaknesses of our municipal institutions are due to various causes. The specific statutory provisions coupled with the debilitating condition of the municipal bodies have encouraged increasing control and intervention of the State government in the affairs of the municipalities. In such circumstances, the State would naturally require a suitable machinery which would be swift-moving and come to the timely rescue of the municipalities. The Secretariat department has been looked at as a policy-framing organ unable to be in constant touch with the needs of the municipalities. Since the District Officer has virtually been dissociated from municipal government and administration since the days of Montagu-Chelmsford Reforms, it has been felt that a specially constituted State executive organ would be of considerable help both to the Secretariat organisation at the State level and to the municipal authorities at the field level. Also, the District Officer has his hands full of numerous functions relating to revenue administration, law and order and development administration. In some States, there has been a practice of using the local government inspector for conducting occasional inspections of municipal affairs. For instance, States like Bihar, Tamil Nadu and West Bengal have appointed such inspectors who go round the districts and look into the working of the municipalities. But the local government inspector is a jack-of-all-trades and master-of-none. Inspection is not conducted on functional lines and its spirit has often been inquisitorial rather than advisory and promotional. Moreover in the absence of any clear idea about its role and purpose inspection is a perfunctory exercise. It bears fruit in the form of a general report which is promptly kept in cold storage by the Secretariat department.

Enumerating the reasons for the establishment of the Directorate, Dr. Bhattacharya observed that general dissatisfaction with the existing mechanism for State supervision and guidance of the

municipalities, need for relieving the congestion of work at the Secretariat level and the utility of a well-equipped State machinery which would act as a bridge between the municipalities and the State level administration, prompted many of the State governments in India to create in recent times a special agency known as the Directorate of Municipal Administration. Incidentally, it is common practice in Indian State Administration to create a Directorate just below the Secretariat organisation in order to undertake operative responsibilities with regard to public works, public health, education and so on. So far, six State Governments have set up Directorates of Municipal Administration to aid and assist the Secretariat departments and to keep in constant touch with the municipalities and meet their urgent needs. The oldest among them is the Rajasthan Directorate which came into being as far back as in 1951, when the Inspectorate of District Board and Municipalities was converted into the Directorate of Local Bodies. Ten years after, Andhra Pradesh constituted its Directorate of Municipal Administration, and the next State to follow suit was Kerala, which set up its Directorate in 1962. In both these southern States the Directorates had come into being in the wake of the introduction of Panchayati Raj institutions and the consequent bifurcation of State level administration with regard to local authorities. The year 1965 witnessed the birth of two more Directorates in the States of Gujarat and Maharashtra respectively. The Maharashtra Municipalities Act, 1965 contains a specific provision for the appointment of the Director of Municipal Administration (Section 74), much like the Andhra Pradesh Municipalities Act of the same year (Section 63). The Punjab Directorate was set up in 1966. Subsequently, the Uttar Pradesh State Government appointed a Director of Municipal Administration, but the organisation of the Directorate is still to be finalised in that State. Two other States, namely, Assam and Madhya Pradesh are actively considering the establishment of similar Directorates following the general trend in State administration in the country. Another State, Tamil Nadu, has also established its Directorate of Municipal Administration.

Dr. Bhattacharya, next, described the organisations of the Directorates in different States. The organisation of the Directorate of Municipal Administration in each State needs a close examination. Of the six States that have set up

full-fledged Directorates, only two, Andhra Pradesh and Punjab, have created regional branches of the Directorate. In Andhra Pradesh, apart from the Director who heads the Directorate, there are two Regional Directors posted in two regions—north and south, into which the entire State has been divided. There are ten districts in each region and an attempt has been made to evenly distribute the workload with regard to municipal supervision and control between the two Regional Directors. Although Punjab is a much smaller State than Andhra Pradesh, it has established three regional offices of the Directorate each headed by a Regional Deputy Director. Later, a few more Regional Deputies have been appointed. Obviously, the purpose of having regional branches of the Directorate is to maintain an independent machinery of the Directorate in the matter of inspection, supervision and guidance of the municipal bodies. But the remaining four States have not created similar regional field organisations. Kerala is the smallest of the six States with only about 28 municipalities to look after. Hence, it is not difficult for the Kerala Director along with the headquarters staff to keep in touch with the municipalities, supervise and guide them. Two States, Gujarat and Maharashtra, have tried to make use of the district administration and thus avoid creating its own independent regional branch offices. In the matter of making use of district machinery for the purposes of municipal supervision and control, the case of the Rajasthan Directorate is of special importance. Like its counterpart in the two States of Andhra Pradesh and Punjab, the Rajasthan Directorate had earlier had its independent regional field machinery consisting of five regional inspectors. In 1962 the Rajasthan Government decided, mainly on the ground of economy, to abolish the regional machinery and delegate powers of field supervision of municipalities to the District and Sub-divisional Officers. Even in Andhra Pradesh and Punjab where regional branches of the Directorates have been established, the District Officer has been endowed with a number of statutory powers relating to control and supervision of the municipalities. It is clear, therefore, that State administration with regard to municipal supervision is still in a dilemma as to whom to choose for field-level operations between a regional office and the age-old district administration. At the headquarters, the Directorate in each State is headed by a Director

who is assisted by a Deputy or Assistant Director. The purity of separation between the Secretariat and the Directorate has been sought to be observed in only two States, namely, Andhra Pradesh and Kerala. In the remaining four States, the Director has been given concurrent Secretariat responsibilities. On the other hand, a full-time Director attending to field-level problems of the municipalities and keeping the State Government abreast of municipal problems, has often been acclaimed as an ideal model. A Director with concurrent secretariat responsibilities, it has been alleged, serves neither the municipalities nor the Government. On the other hand, it has been argued that in practice the separation between the Directorate and the Secretariat is an illusion, and there are distinct advantages in making the head of the Directorate also a member of the Secretariat. Of the six States that have set up full-fledged Directorates of Municipal Administration, Andhra Pradesh, Gujarat, Kerala and Maharashtra have multi-functional Secretariat departments, and Punjab and Rajasthan have uni-functional local self-government departments. Both Punjab and Rajasthan have given their heads of Directorates concurrent Secretariat responsibilities. In the four other States with multi-functional Secretariat departments, the Directorate can be expected to function in comparative ease and isolation; for, the Secretariat department will be too busy to handle its heavy workload because of the combination of a number of functions under its charge. In any case, the differences in organisation, said Dr. Bhattacharya, are worth keeping watch and at a later date it will be interesting to study the comparative advantages and disadvantages following from the differences in the organisational patterns.

Dwelling on the powers of the Directorates, Dr. Bhattacharya continued, that in all the States, the Directorates were deriving their powers by way of delegation. The Municipal Acts in India abound in regulatory provisions which serve to strengthen the hands of the State governments in relation to municipal administration. The newly created Directorates of Municipal Administration have benefited from this statutory position, since many of the important controlling powers of the State have been delegated to them. In illustrating the Directorates' powers regarding municipal organisation and constitution, Dr. Bhattacharya

said that in Kerala the Director was appointed as the Election Authority for municipal election purposes. The Punjab Director has been delegated the State power to approve the election of Municipal President and the Rajasthan Director has been given the extraordinary power of removal of municipal councillors in very limited instances. Because of the prevalence of separate personnel system in Gujarat, Maharashtra and Punjab, the Directorates in these States do not enjoy substantial powers over municipal personnel administration. Still, the Maharashtra Director has been empowered to accord sanction to the creation of posts and determine qualifications, and pay and allowances for certain categories of posts. The Punjab Director has been given the power of according approval to the appointment and removal of the municipal secretary, and to compel a municipality to punish any of its employees on the ground of negligence in the discharge of his duties. The Director can even compel a municipality to dismiss an employee. The States of Andhra Pradesh, Kerala and Rajasthan have evolved State-wide unified municipal services, which have naturally increased the powers of their Directorates. The Directors in these three States function as the controlling authorities for different categories of municipal posts. They have been empowered to appoint, transfer and take disciplinary action against particular classes of municipal employees. The Directorates also have considerable powers over the financial administration of municipalities. In this respect the Directorates of Andhra Pradesh and Kerala are the most powerful. The Director in Kerala has the power to direct municipal councillors to modify municipal budget estimates, and in Andhra Pradesh the Director has important sanctioning powers in regard to municipal expenditure. Similar sanctioning powers are also enjoyed by the Kerala Director. The Punjab Director has power to approve budget estimates and reappropriation from one budget head to another. The Directorates of Rajasthan, Maharashtra and Gujarat do not enjoy similar controlling powers with regard to municipal finances. As regards general supervision over municipal administration, Dr. Bhattacharya observed that the Directors in all the States were given powers to inspect and supervise municipal property and work, and records and proceedings. Emergency and default powers are not enjoyed by all the Directorates.

In Gujarat and Kerala these powers vest in the State Governments themselves, but the Directors in Andhra Pradesh, Punjab and Rajasthan have been empowered to suspend municipal resolutions, orders and acts in certain cases. The Maharashtra Director has the power to enforce performance of duties in case of default, by a municipality. In other States, this default power has been reserved for exercise by the State Governments.

It appears, said Dr. Bhattacharya, that the Directorates of Municipal Administration were delegated substantial regulatory powers over municipal administration. The original idea behind the setting up of Directorates was that these would function as friends, philosophers and guides to the municipal bodies. But the nature and extent of powers delegated to them by the State Governments make them more like controlling authorities sitting on judgment over the day-to-day administration of the municipalities. There is also some confusion about the distinction between 'Government' and 'Directorate'. The latter, Dr. Bhattacharya said, is just an agency of the Government and cannot be expected to exercise important constitutional, regulatory and punitive powers, which must remain in the hands of the Government itself. Because of a lack of clarity on this point, in some States certain important regulatory powers have been delegated to the Directorates, but in some others such powers have been retained in the hands of the States.

Dr. Bhattacharya also referred to the recommendations of a recent committee (the Rural Urban Relationship Committee) which recommended the establishment of State Directorates of Urban Local Bodies. The accent of State supervision over the municipalities has been on the negative, restrictive and punitive side. The municipality, continued Dr. Bhattacharya, has always been suspected of being in the wrong and state-municipal relationships have grown up under this all-pervading atmosphere of distrust and suspicion. In such circumstances, if a State agency can really dispel the unhealthy air of suspicion and serve the cause of positive municipal growth and development, such an agency would immediately command the respect of the municipalities. The controlling authority and restrictive powers which the newly created Directorates have been delegated should be carefully used, in order to create an atmosphere of faith and friendliness. The character of municipal legislations in India remaining as it is,

there is very little to choose between the District Officer and the Director of Municipal Administration. Both are civil servants appointed by the State government, and as such any attempt to confer on them powers restrictive of representative municipal government may be resented by the municipal bodies. Inspection, advice, guidance and even informal pressures by civil servants look innocuous; but the delegation of important regulatory powers to a civil servant like the Director is of questionable merit in a democracy. In a Parliamentary system of government, the Minister in-charge of Local Self-government is directly responsible to the legislature for the exercise of his powers of control and supervision over the municipalities. It may, therefore, be unwise to delegate important governmental powers of supervision and control to an appointed State official. Also, it is bound to create political complications, to face which the civil servant is not the fit person. By way of conclusion, Dr. Bhattacharya said that the nature of local-self government in India was modelled on the British system and not the Continental one. A new machinery for municipal supervision has got to be devised in such a way that it may not be violative of the spirit of local self-government.

After the presentation of the paper by Dr. Bhattacharya, the Chairman invited Dr. R. B. Das of the Lucknow University to give his views on the subject of state control and supervision. Dr. Das agreed that Dr. Bhattacharya had raised some important points which should be carefully considered. The newly constituted Directorates of Municipal Administration, he observed, were meant to be the controlling authorities mainly. The Secretariat staff was busy and had heavy workload, which stood in the way of keeping a constant watch on the working of the local bodies. But, as Dr. Das said, the Directorates had an important role to play as friends and guides of the problem riddled municipal authorities. He pointed out that municipal administration was gradually becoming more and more complex and there was a need for bringing scientific knowledge to bear on the solution of various urban problems. For this the municipal authorities needed to be assisted and guided by the higher level authorities. Dr. Das remarked that for the different civic services, standards of performance were to be laid down and their compliance was to be ensured. Also the municipal authorities needed to be advised on matters of financial management. In these spheres the staff

of the Directorates, said Dr. Das, could be of immense help. The advice should be timely and well-directed. He observed that the Directorates should shed the traditional negative attitude and adopt a more positive one which alone could help the municipal authorities in solving their multifarious problems. He felt that State practices were as important as the provisions of formal law. State control, in his opinion, needed to be exercised carefully, sympathetically and with a view to promoting the cause of local self-government. Dr. Das thought that State control over the municipal authorities in India was often unnecessary. There were many undemocratic features which needed to be reformed if a State government was really serious about the working of the local representative institutions in a free and fair atmosphere. He agreed that there was misuse of power and authority at the local introduced level. But, he said, things were not better either at the higher levels of government. He concluded that State control needed to be considerably liberalised.

Next the Chairman invited comments from the participants. One participant described the State level organisation in Tamil Nadu. He referred to the Inspectorate which had been in existence for over fifteen years. He said that because of the increase in inspection work the post of Regional Inspector has also been introduced in Tamil Nadu. The Speaker observed that most of the major restricted powers were vested in the Government of Tamil Nadu and not given to a civil servant.

The next speaker said that several States took up the idea of establishing the Directorates of Local Bodies, but in some of them, this experiment was given up. Referring to Haryana he said that in this State the Directorate was abolished. He felt that the size of a State was an important determinant in evolving the State machinery for municipal supervision. In very big States like Uttar Pradesh, there was need for some kind of federal arrangement with regard to the State departments. But in a small State this might not be necessary, he observed. He pointed out that if the Director of Local Bodies or the Regional Director was supposed to carry out some programme, he would hardly be able to deliver the goods because of the dominant role of the District Officer. He felt that the status of the controlling authority was also of considerable importance.

The next participant observed that the Director of Municipal

Administration should also combine in himself the functions of the Director of Town and Regional Planning. Another participant agreed that the Secretariat level officers were over-burdened and there was a need for the establishment of the Directorate to supervise the working of the municipalities. He was of the opinion that if the Director shaped as a police officer directing and punishing the municipal authorities, the institution of the Directorate would be of little use. The municipalities, he observed, would accept the Director as their friend and guide, only if he would be able to help them in their work and advise them in solving their problems. He felt that the Director should, therefore, be independent of the Secretariat and he must endear himself to the municipalities. Regarding the powers of the Directorate he observed that these should be statutorily defined without being dependent on the Minister's orders. He also stressed on the proper staffing of the Directorate so that the municipalities could receive real guidance from it.

One participant wanted to know the nature of the relationship in practice as well as in law between the Directorate and the District Magistrate in Punjab. In reply, the previous Speaker continued that the Director and the Deputy Commissioner were enjoying concurrent powers but fortunately there was no conflict between the two. The Deputy Directors posted at different regions would exercise the supervisory powers and functions and to that extent the powers would be withdrawn from the Sub-Divisional Officers. The speaker pointed out that the regional deputy directors would be working under the overall jurisdiction of the Deputy Commissioner. Regarding financial control, he said, at present the Director was controlling the budgets of the first-class municipalities and the budgets of other municipalities would go to the Deputy Commissioners. Since the Deputy Commissioner and the Sub-Divisional Officers were very busy men, the Speaker felt that the controlling authority should be vested in the Deputy Directors. He was of the opinion that the Directorate should have an independent status and its officers should spend considerable time going around and seeing people. The Speaker referred to the proposal in Punjab for the appointment of a Deputy Director in-charge of two districts. Another participant drew his attention to this feature and wanted a clarification. The speaker then made it clear that the Deputy Director working in a particular

district would be functioning under the Deputy Commissioner of that district. One participant remarked that a similar experiment was tried in regard to Panchayati Raj organisations. There was a Development Commissioner who was in-charge of development, looking after the whole range of agriculture and the District Magistrate was authorised to enter remarks in the character rolls of Block Development Officers. This, he said, led to conflict. In reply the speaker said that the Regional Deputy Directors would be under the complete control of the Deputy Commissioner concerned. So, there was no room for conflict. The next speaker observed that since the Deputy Director was essentially conceived as a regional man the responsibility of writing the character-roll of such an officer should be vested in a regional officer such as the Divisional Commissioner. The previous speaker felt that it would not be wise to undermine the authority of the Deputy Commissioner and the controlling powers, in his opinion, should be vested in the Deputy Commissioner. He remarked that the way the Deputy Directors would be helping the municipalities in their working would go a long way in making the Directorate a useful agency for the municipal authorities.

The next participant struck a pessimistic note by observing that the deliberations so far could not convince him about the utility of the Directorate. He could appreciate that the officers of the Directorate would have to go to the field where some serious enquiries are to be conducted. Again, the Directorate would be a useful agency for the administration of centralised municipal service. He was, however, not quite sure how the Director and his deputies could function in the roles of friends, philosophers and guides. He put the question : what advice could the Directorate give to the municipalities? There was no point in sending a senior officer to a municipality to advise on petty matters. Many a times, circulars were actually sent to the municipalities offering different kinds of suggestions and advice. Even the municipal councillors would frequently visit the district headquarters and the Secretariat. Thus the speaker felt that there was hardly anything on which the Directorate could give any real advice.

One of the participants who happened to be a Director of Municipal Administration, observed that the Directorate could

give advice to the municipalities on many subjects. By way of illustration, he narrated his own experience when he visited some of the towns and took particular care to solve the problem of growing slums around the main towns. He used to visit the towns and speak to the municipal councillors about the problem of urban slums. The Deputy Directors would also be present there. He would exhort the municipalities to approach the problem of slums in a planned and methodical way in order that solutions could be arrived at within a specific time horizon. With government assistance and advice he said, the municipal authorities could be activated and encouraged to undertake tasks of urban improvement and development.

One participant from Assam narrated the practices in his State. Since the Chief Minister was in-charge of local government and town and country planning, his advice and direction were of great help in building up the department. The speaker said that the report of the Rural-Urban Relationship Committee was instrumental in creating a favourable atmosphere for the setting up of the Directorate of Municipal Administration. In Assam, the municipal services are expected to be provincialised and a central valuation organisation at the State level is being considered. Regarding inspection, he said, there was a proposal for the appointment of inspecting auditors looking after a number of municipalities. The speaker felt that the controlling powers of the District Magistrate should not be taken away. He felt that the Directorate at the State headquarters should not merely be a friend, philosopher and guide; it should also have certain amount of controlling powers. In his opinion, if the Director was also made *ex-officio* Deputy Secretary or Joint Secretary, coordination of work between the Directorate and the Secretariat would become much easier.

At this stage, the Chairman remarked that the discussions so far had been very useful and he wanted the administrators attending the seminar to throw light on the actual problems in State-Municipal relations. One participant from Rajasthan observed that in his State, although the Directorate was set up first, the Director was simply a post office. The papers that were sent to the government for sanction were generally routed through the Director, whose role was merely a formal one. As an economy measure, officers of the Directorate in Rajasthan

were merged in the Secretariat. He felt that the Directorate was a useful machinery which could be of real help to the municipal authorities. Since Rajasthan has introduced centralised municipal cadres, the Director, as the Controlling Authority, has a lot of work to do. In his opinion, the Directorate of Municipal Administration should be manned by officers drawn from the municipal cadres and not from the State services. For very rarely the present Directorate staff could know and appreciate the real problems of the municipalities. As regards delegation of powers to the Director, he commented that the Director was given the power to transfer some officers but in practice he could hardly exercise this power. Whenever a Director would transfer even a petty official, there was pressure from above. He said that the Directorate, if properly organised, could be a useful agency, and he felt that it should be given some controlling powers; its advisory role was not enough. The next speaker remarked that in organising the Directorate of Municipal Administration, one must keep in mind that the municipalities were local self-governing bodies. He was of the opinion that the Secretariat officers would hardly go out on tour and there was little direct contact with the field level problems. So, the head of the department (the Director), he felt, should be given some powers. The municipalities had to deal with many of the functional State departments such as those of health, water supply, education and so on. The speaker observed that the Directorate could play an important role if it could get things cleared quickly at the State level. Presently, in many States, the Directorate was involved in municipal personnel management, but the speaker said that due to undesirable interferences the Directorate could hardly exercise its powers. He felt that the Directorate could also play an effective role in helping the municipalities to augment their resources. The Directorate could advise them about the loopholes and leakages that needed to be plugged, and mismanagement of municipal finance could be corrected through the advice of the officers of the Directorate. He concluded that the status of the Director should be raised and being the head of the department, he should be more effective in meeting the various municipal problems.

The Chairman then summed up the discussions of the session and remarked that the deliberations would be useful in reorganising the State administrative departments. He was particularly

worried about the State of municipal finance which, in his opinion, deserved special attention.

MORNING SESSION

(May 8, 1970)

The morning session was presided over by Dr. R. B. Das, Director of the Institute of Public Administration, Lucknow University.

The Chairman, Dr. Das, requested Dr. Tiwari, Director of the National Institute of Health Administration and Education, to give his views on State-Municipal functional relations. Dr. Tiwari prefaced his talk by pointing out that he would like to raise certain points in connection with State-Municipal functional relations in the field of health administration. He thought that the problem of health administration could not be understood properly unless this was related to the general problems of administration. In his opinion, there is no area or field of activity which one can really examine, analyse and act upon without being conscious of a large number of interactions that take place between one area of activity and another and between a specific area of activity and the whole spectrum of performance of the organisational set-up of any institution. He pointed out that in many cases, health programmes had suffered at the implementation stage because of the absence of any dialogue between the planning agency and the local level implementation agency. Dr. Tiwari continued: "A general lowering of the standards of efficiency of municipal administration has been a feature of post-Independence years. In the area of health activities, the gaps have tended to be even wider because of the rapid technological advances in the last twenty years, the non-availability of additional inputs required for the exploitation of those advances and the rising tide of popular expectations. While many of the factors involved in determining the general level of performance are relevant to 'health', for the purposes of the present discussion these may be treated as 'extrinsic', even at the risk of making a rather artificial distinction, as against those that may be considered as 'intrinsic' in regard to the problems of health."

The achievements in respect of public health activities such as control of communicable diseases, maternal and child health

services, school health, food hygiene, medical care of the community, etc., have not been satisfactory at all. Going into the causes of this state of affairs, a fact that stands out is that in a highly centralised development planning, the urban self-governing institutions are neither associated with the formulation of the plans nor are their needs and problems reflected adequately in these, although these local bodies account for one-fifth of the population of the country. Whether in developing the planning strategy, in laying down the targets or in allocation of resources, the focus has been largely on the operational activities of the Government all along the line from the Planning Commission, the Central Ministries down to the State Governments. In asserting that "district plans are only rural plans", the Rural-Urban Relationship Committee adds pertinently that the District Five Year Plans are exclusively rural development plans and do not provide for the planning and development of urban areas... the ad hoc allotment of funds in the State Plans were not necessarily related to the overall and comprehensive development needs of the towns and cities. Take for instance the National Malaria Eradication Programme where the entire vulnerable population was intended to be protected through 393 units each covering 1 to 1.25 million population. In the very elaborate and extensive programme mounted for this purpose through the State governments, requiring a widely varying series of activities in the attack, consolidation and maintenance phases, the availability of the necessary know-how and resources to meet the obligations on the part of the municipalities was more or less taken for granted. The result is that 'urban malaria' is plaguing the programme now and has come in the way of the achievement of the national target. In the case of small pox eradication programme, again, one had reason to expect a better showing by the corporations and municipalities, considering that these deal with more compact populations and have an organised machinery for vaccination. An analysis of the data on mortality and morbidity from small pox in the corporations and major municipalities shows, however, that among them they accounted for 11 per cent of the total cases in the country in 1969 as against 9.7 per cent in 1967. The explanation for this partly lies in the inability to take into account the competence and resources of the urban local bodies in formulating and implementing the

programme. It is reported that while, by and large, the vaccinator population ratio was better in the municipal areas than was deployed for the national programme generally, the performance suffered on account of inadequate supervisory staff and due to the multiplicity of functions assigned to the vaccinators. The supervision and guidance available at the highest technical level in the municipal hierarchy has also been of an indifferent quality. The wholetime Health Officers, where employed, do not necessarily have public health qualifications, and in the case of smaller municipalities, they function only on a part-time basis. In both categories, a host of administrative and other routine duties stand in the way of their effective participation in supervisory and controlling functions.

There has been a shift from the use of State Health Cadre Officers towards direct recruitment for the individual posts of Health Officers. A feeling of insecurity and limited career prospects have tended to lower the quality of recruits. Pay scales are not attractive. With rare exceptions, a cadre of municipal employees has not come into existence. All this has led to a weakening of the closer liaison and ties with the State Health Departments, which existed earlier. To add to this, the expanding activities undertaken by the governments have kept the State Health Department officers so pre-occupied, that their interest in municipal health affairs has been only of a fire-fighting type. With the cessation of an emergency situation requiring a more direct involvement of the State health agencies, conditions are usually allowed to revert to the old routine, leaving little permanent impact behind. Technical guidance and support in the matter of long-term planning of health services and in the day-to-day activities of the municipalities has not been forthcoming from the State Health Departments in a form and manner readily acceptable to the self-governing institutions. The corporations and municipalities have their own problems and constraints which go to determine the objectives of their health programmes. That the required consonance between these and those set up by the Health Departments, has not always been achieved is due to many reasons. It is assumed that the municipalities would fall in line with national, regional or State objectives or targets without adequate care being taken to find out as to how the priorities involved would fit in with those of the municipalities

concerned. In many cases, there is no suitable machinery in existence for holding a dialogue between the two parties and to facilitate the development of a community of outlook and approach. The municipal health officers are not 'cultivated' to the extent necessary. The municipal personnel do not get the top priority in the training programmes developed and offered by the State Health Departments. In the periodical meetings of the district and other health officers of States, the attendance of municipal health officers is not required, even though they are responsible for the health of a sizable portion of population at the nodal points in each State.

In addition to this, as already stated earlier, the availability of the necessary resources and technical competence is more often than not, taken for granted. With the increasing pace of urbanisation which naturally generates problems of unregulated growth, the gaps between the needs and resources are continuously widening. Reluctance to tap new sources of revenue coupled with a poor husbanding of the existing ones makes the practice of economy imperative, and the first victim in this situation is generally the already poor health service. The situation may be said to have developed, therefore, on the basis of a relationship where the role of leadership and enlightened guidance on the part of the State Health Department has not been played as actively as it might reasonably have been expected. On the other hand, there has perhaps been the lack of a sense of 'belonging' on the part of the municipal health services which continue to occupy at best a peripheral place in the larger scheme of things. That this is due not to a lack of thought given to this matter is clear from the proceedings of high level conferences and reports of many committees set up from time to time. The expected coordination has not come about to the required extent, namely, due to the inadequacy of the operational measures instituted towards the end in view. A question that may pertinently be asked in this context is that if the provision of basic civic amenities is the primary function of a local authority, how far the policy making levels in the State concerned with education and health, which constitute the essence of the civic needs, influence the processes of local self-government? Has their involvement and participation had the primacy which is called for or is it secondary to the legal and administrative set-up necessary to

regulate the functioning of a machinery set-up for this purpose? What are the working relationships of the Local Self-Government Department with the Health Department? To what extent are the Health Departments involved in policy and programme formulation, or do they only act as advisers when such advice is asked for?

Granting the need for a single controlling agency at the State level, a closer and more live association of the Health Department with such an agency is essential. As long as the two departments agree on this, the machinery to be set up for this purpose would have to be adapted to the local situation and any universal formula may not be feasible. Any such arrangement should, however, clothe the State health authority with a status which will be respected by the municipal agencies apart from what is provided in the legal provisions. It needs to be recognized on the other hand that statutory and executive action by itself cannot be relied upon to bring about the desired change. What can be done to make the Health Departments more concerned in developing a more active, continuous and constructive relationship with the municipalities? While on the one hand the administrative re-organisation of the Health Directorates in the States and the increasing diversification of activities brought about by massive national programmes have added heavily to the loads carried by most of them, on the other, no programme director can afford to allow islands of low achievement to mar the scene.

If a procedure requiring all programme chiefs to deal with their counterparts in the municipalities may become a cumbersome expedient, the problem is important enough to justify a senior officer in the Health Directorate being assigned the responsibility of liaison with the municipalities and to serve as a two-way channel of communication. It should be one of his duties to see that the viewpoint, needs and problems of the municipalities are taken into account in developing long and short range health plans at the State level, that the municipal bodies are kept posted in advance of the part they will be expected to play and they get a rightful share in the allocation of resources for State-wide health activities consistent with their statutory obligations and entitlements. If in the recent years, the Ministries at the Centre have found it necessary to set up special cells or appoint officers to look after the needs of the

Union Territories, there seems to be no reason why the State should not be equally, if not more, concerned with finding ways of doing the same for their constituents standing more or less on a parallel relationship with them.

There has been a considerable spurt in training activity in recent years—in-service, orientation and refresher. While most local bodies have neither the resources or opportunities for organising such training on their own, they have not been encouraged sufficiently or provided incentives to avail of or benefit from the State or regional training programmes. This area deserves greater attention, at least in the field of health, than it has received so far. Besides, to foster a feeling among the municipal health executives of being honoured partners in the raising of the health standards of the country, they should be welcome in conclaves where problems of health administration and planning are reviewed and discussed in the States.

Dr. Tiwari then concluded that viewing the situation from a national angle and making allowances for the extremely varied and complicated set-up at the State and local levels in different parts of the country, the approach to the subject was necessarily rather generalistic. What he intended was mainly to focus attention on some of the more critical areas and to throw up ideas and suggestions which would provoke a constructive discussion.

After Dr. Tiwari had presented his points of view, the Chairman invited Shri J. P. Naik, Member-Secretary, Indian Council of Social Science Research, to give his views on the subject of State-municipal relationships in the field of educational administration. Shri Naik opened his speech by saying that he would like to place before the Conference one or two suggestions. He said that his suggestions were naturally based on certain assumptions. For instance, there would be a state department dealing with the municipalities, and the municipalities would be concerned with the administration of education at the local level. In such a situation, he said, the possibility of the Local Self-Government Department on the Directorate of Municipal Administration taking over the responsibility with regard to the educational administration could be ruled out. Certain functions such as those relating to educational curriculum, syllabi and test-books, etc., would always remain with the Education Department at the State level. At the same time,

Shri Naik observed, successful implementation of educational policies would depend on the resources position of the municipalities. Again, the administration of primary education was closely linked up with the work of the Public Works Department and the Health Department. Shri Naik remarked that the main problem in the field of educational administration was that of coordination, and we must find solutions to it. He referred to the device of the coordination committee and quipped that the coordination committees generally did any thing but coordination. The suggestions of the coordination committees would always remain unimplemented because of the absence of any implementation agency. Shri Naik wondered if it would be possible to create a post of an Educational Adviser within the Department of Local Self-Government. This officer would keep abreast of what was happening to education in the municipalities. Important functions like collection of educational statistics and even the interpretation of a letter sent by the Education Department to the Local Self-Government Department could be got done with the help of the Education Officer who would be knowing the language or the jargons of the Education Department. Shri Naik thought that this officer should belong to the Education Department. He remarked that correspondingly in the Education Department, there was nobody who was familiar with the problems of urban and municipal administration. He pointed out that in the Education Department the educational problems of the municipalities would not be considered as a whole. There would be somebody concerned with teachers training, somebody would be dealing with textbooks and so on. It was, therefore, necessary, in his opinion, that in the Education Department there should be an officer to have liaison with the Local Self-Government Department. He would understand the municipal problems and specialise on the problems of educational administration in the municipal areas. Shri Naik felt that these organisational changes would go a long way to create a spirit of understanding in the State level departments. He went further to say that a group of officers under the chairmanship of the Local Self-Government Department itself could sit together and write up inspection or guidance reports on the municipalities. Educational expenditure, he pointed out, was a major item of municipal

expenditure and when education would be made compulsory up to the age of 14, the expenditure would further go up. Increase or decrease of educational expenditure could not be done without considering the overall revenue situation of the municipalities. Once in three years, concluded Shri Naik, a report should be prepared on the development programmes and functional administration of each municipality in all its aspects and this should be the joint endeavour of the Local Self-Government Department and the concerned technical departments.

One participant posed the question whether the local bodies should at all be given the responsibility to run educational administration. Shri Naik said that this was a very difficult question to answer. He pointed out that those who were opposed to the idea of municipal administration of education were largely the teachers. He said that his personal view was that there was no escape in the long run from at least the school education being under the municipalities. He would, of course, like to see considerable improvement being made in the municipal administration of education. There must be, in his opinion, local committees of schools, and parent associations; supervision of education, if any, would be through these organisations. He said that in America there was no need for official supervision over educational administration, because the children would go home and tell their parents what was happening in the schools and the parents were actually in touch with the activities of the schools. Shri Naik observed that in every democratic country, education was a local function. He conceded, however, that there were exceptions and these were due to peculiar local situations. In Australia, for instance, education was highly centralised. The reason, he pointed out, was that nearly 70 per cent of the Australian population lived in the Capital city. So, in the Australian situation it was the responsibility of a big capital city to provide essential services to people going into the interior. Referring to France Shri Naik observed that the teachers in France were the employees of the Central Government, but every other aspect relating to education was the responsibility of the local body. He felt that in India there was a tendency to function much better in small groups and in his opinion education locally administered was much better than education centrally administered. Shri Naik remarked that our

weakness was that we have, many a time, failed to make a distinction between a public servant and a private servant. For this, he concluded, our leadership needed to be properly oriented.

After the coffee break, the Chairman desired that the papers presented this morning should be discussed. The first speaker explained the working of the Kerala Directorate of Municipal Administration. He mentioned about the multifarious functions discharged by the Directorate in the fields of public health, water supply, education, family planning and even the State National Savings Programme. Regarding the role of the Directorate as a coordinator, he pointed out that there was a State level coordinating body presided over by the Minister, and sometimes by the Secretary, on which representatives from the different functional departments such as the Health Department, the Education Department and so on, were represented. The meetings of this coordinating body would take place once in three or four months and everybody would present there his point of view. This method, he said, was very helpful in implementing the various programmes.

The next speaker described the situation obtaining in Tamil Nadu. He pointed out that the State functional departments dealing with education, public health, public works, etc., were playing their respective roles in helping the municipalities to solve their functional problems. The public health services in Tamil Nadu municipalities are looked after by the sanitary inspectors supervised by the health officers who are appointed by the State Director of Public Health. The officers of the State technical departments would go out on inspection and supervise the municipal works and programmes and give proper advice for their successful administration. Even from the headquarters, the departmental heads would keep abreast of what was happening in the municipalities. He said that the Government of Tamil Nadu was very keen to solve the water supply problem in the municipal areas and negotiations were going on with the Life Insurance Corporation of India for contracting bulk loans for this purpose. The speaker observed that the municipalities were facing financial difficulties and they could hardly meet even the expenditure on the establishment. So the Government of Tamil Nadu have taken a decision that in a phased programme,

the high schools run by the municipalities would be taken over by the State. He felt that the municipalities should not be burdened with additional expenditure in any future reorganisation programme.

The next participant remarked that there was need for a person at the State level who would be available to the municipalities for assistance and guidance. He said that if the health officer working in the municipality belonged to the State cadre, this led to a very different type of State-municipal relationship. In many States, he said, that was not the position. He observed that many a time the State Health Department would arrange periodical meetings with the district officer, the chief medical officer, etc. It was unfortunate that in such meetings the municipalities were generally not represented. Another participant spoke about the State-municipal relationship in Delhi. He remarked that instead of issuing directives, the Delhi Administration was giving advice to the various local bodies. He pointed out that there was a proposal now to transfer the middle schools and higher secondary schools to the Delhi Administration for their better running and performance.

Speaking on the Madhya Pradesh situation, one participant observed that the main problem in State-municipal relation was to see that the municipalities worked properly. Supersession, he said, was not very common, and the municipalities were free to go to the Courts to challenge the order of the State Government. In his opinion, the suggestion to vest the power of supersession in the Governor was of doubtful utility, since the Governor would have little time to give attention to the affairs of hundreds of local bodies. He felt that the power of dissolution of the municipal councils should be there in the hands of the State Government. It was, in his opinion, in the nature of a surgical operation. He liked the suggestion given by Dr. Tiwari about the organisation of the State departments. He agreed that the idea of having a senior officer in the State Health Department who would maintain liaison with the municipalities, was a useful one. He also thought that Shri Naik's suggestion should be seriously considered. Referring to the State level organisation in Madhya Pradesh, the speaker continued that in the absence of a Directorate or an Inspectorate the State Government was facing some problems in dealing with the municipalities.

Now, however, the State Government was thinking of introducing the system of Directorate at the State level. He admitted, however, that the deliberations of the seminar—dealing with the pros and cons of the Directorate—led him to give a second thought to the establishment of the Directorate of Municipal Administration at the State level. From his experience of working as a Director of Panchayat, he found that the Directorate was a useful organisation and it could, if properly organised, render very useful service not simply as a bridge between the local bodies and the Government but also as an agency for undertaking a number of important functions such as inspection, advice and guidance.

The next speaker spoke about the Assam Directorate which was of recent origin. He admitted that there was some confusion about the proper shape of the Directorate. The Assam Government, he said, would take a decision that there should be a consultative council consisting of the Chief Minister as its Chairman and other ministers in-charge of different development departments, and the heads of the development departments dealing with matters like public works, town and country planning, housing, etc. He agreed that the different schemes relating to the municipalities could be efficiently executed only if all the State functional departments would work in unison. The speaker mentioned about the Assam Government's efforts to get funds from the Life Insurance Corporation of India and the commercial banks for helping the municipalities in their development schemes. The Assam Government, he said, was also favourably disposed towards the idea of having a municipal finance corporation in Assam.

The next participant spoke about the situation in Punjab. He felt that there was need for departmental coordination at the State level to help the municipalities to tide over their difficulties. He made special reference to the lack of public health facilities in most of the Punjab towns and cities. In Punjab, he said, the work of underground sewerage and water supply was being looked after by the State Public Health Department under the control of the Secretary, Public Works Department. He remarked that there was great difficulty in coordinating the work of the Public Health Department and the Local Self-Government Department. The procedure was, he pointed out,

that the municipal committees had to deposit the money with the Public Health Department even before the work was undertaken by the Department. Thus, for years, lakhs and lakhs of rupees sanctioned for municipal work would be kept deposited with the Public Health Department, but the actual work would never get started for years. As a result, the municipalities were burdened with the payment of interest charges. The speaker remarked that the officers of the Public Health Department did not attach much importance to the work of the municipal committees. So, when a municipal committee would approach the Public Health Department and enquire about the money that was deposited with the Department, the Department would generally keep silent. In the opinion of the speaker, there should be separate wings of the Public Health and Public Works Departments under the control of the Local Self-Government Department. He said that it was shocking that the municipalities in Punjab had to pay 14 per cent of the expenditure of the Public Health Department and he felt that it was possible to create an independent agency exclusively for municipal works with the same amount of money. The speaker felt that it would be good to have an independent engineering cell under the charge of the Director of Local Bodies for the execution of water supply and sewerage schemes in the municipalities. Referring to the family planning work in the municipal areas, he said that although money was available from the Government of India, there was hardly any coordination between the municipal administration and the State family planning programme. He desired that family planning work should be made an indispensable part of municipal administration. In making performance appraisals of the municipal executive officers, it might be possible to include remarks about their work and enthusiasm in the field of family planning work. He maintained that the Director of Municipal Administration should ensure coordination not only at the State level but also at the field level. The municipal problems could be discussed in the conferences of local bodies which should be held regularly. He mentioned about one such conference in 1969 at Amritsar. He said that the presidents and the vice-presidents, and the local politicians at large should not be disrespected. If one could appeal to their good sense and take them into confidence, their cooperation and participation

in good administration could be assured. The speaker suggested that a coordination committee could be constituted consisting of the representatives of the municipalities, the Director and the head of the proposed engineering cell. He did not favour the idea of a liaison officer to maintain contacts with other sister departments. In his opinion the Director should do this work. He observed that the Town Planning Department and the Local Self-Government Department should work under one departmental head. Regarding education, he said, because of financial difficulties which every municipality was facing, it would not be proper to burden them at the moment with educational responsibilities.

Another participant spoke on the subject of control and supervision with special reference to the Calcutta Corporation. He remarked that in the case of a bigger municipal corporation like the Calcutta Corporation, there was hardly any necessity for State supervision and control. In fact, he said, help and co-operation from the State departments were easily available. He observed that ultimately the supervision would be exercised by the local community rather than by the higher level government. At the end of the morning session, the Chairman thanked all the participants for making the deliberations interesting and useful.

AFTERNOON SESSION (May 8, 1970)

The afternoon session started with Shri Vohra, Commissioner and Secretary to the Government of U.P. Local Self-Government Department, in the Chair. The Chairman requested Shri Deva Raj of the Centre for Training and Research in Municipal Administration, IIPA, to initiate the discussion on district administration and municipal government. Shri Deva Raj said that it would have been better if the discussion could have been initiated by one of the participants who had practical experience of dealing with the local bodies at the district level. He remarked that in State-municipal relationship, supervision and control were as much necessary as guidance and assistance. So far, however, the emphasis had been more on control rather than on guidance. He observed that the role of State government should be to strengthen the municipal bodies in order that

they could perform their functions efficiently. Tracing the history of the relationship between the district administration and the municipal bodies, Shri Deva Raj pointed out that in the past the District Magistrate was very much a part of municipal government and he used to be the head of the municipal authority also. The elected chairman came into the picture only after the Montague-Chelmsford Reforms of 1919. A policy decision was taken that the Indians will be given more opportunity to take part in administration. After the Reforms, the District Magistrate was no longer an integral part of municipal government, but he could supervise and control the municipal bodies from outside. He was vested with the powers to visit and inspect the local bodies, and call for records and returns, and he acted as a channel of correspondence between the municipal body and the State government. Shri Deva Raj pointed out that outside the Presidency towns, the District Magistrates had more powers of control and supervision and even today these powers remain substantially the same. The State government depends on the District Magistrate to collect information about the affairs of a district including those relating to municipal government. If a municipality is to be created or if a municipal boundary has to be extended, the State government would generally call for reports from the concerned District Magistrate. The municipalities also depend on the District Magistrate on certain matters. For instance, there is a provision in most municipal Acts for taxes to be realised as arrears of land revenue. This can only be done with the cooperation of the District Magistrate. Similarly, when land has to be acquired, the municipality has to approach the District Magistrate. He has also a unifying role in the matter of coordination of the activities of the rural and urban local bodies in the district. Shri Deva Raj raised a few important questions: should the District Magistrate have the powers that he presently enjoys under the municipal enactments? Whether the district administration should continue to be utilised for the purposes of controlling the local bodies, for channelling correspondence, for supervising and inspecting the municipal bodies? What should be the relationship between the Director of Municipal Administration and the District Magistrate? What should be the relationship between the State technical departments

functioning at the district level and the municipal bodies, and what role will the District Magistrate play in this respect?

When the subject was thrown open for discussion, one participant presented before the seminar the main recommendations of the Administrative Reforms Commission's Study Team on District Administration. According to this Study Team, the Collector should be empowered to take decision and issue suspension orders, etc., if the actions of the municipal authorities were illegal. The Collector's order of suspension should, however, be subject to confirmation by the State government. Secondly, the Team recommended the constitution of a District Tribunal consisting of the Collector and some other members. The Tribunal should be empowered to go into the cases of mal-administration of the municipal authorities, and an appeal against the verdict of the Tribunal would lie to the Board of Revenue. The Collector should retain the power to inspect the municipal authorities within his jurisdiction. In regard to the relationship between the Directorate and the District Administration, the Study Team recommended that in order to enable the Collector to have control and supervision over the municipal authorities, it would be better if the Directorate could function under the control of the Collector.

Next participant thought that the problems raised by the two previous speakers were of considerable importance. Referring to his State, Tamil Nadu, he remarked that the Collector there played a very important role in controlling and supervising the municipal bodies. The Collector was empowered to suspend a municipal resolution. The suspension order would, however, have to be reported to the Government, and the final decision would be taken by the government. The Collector had also the power to call for records and files from any municipality. The speaker observed that in spite of these powers it was rather unfortunate that the Collector, as he was involved in too many things, did not have the time to go into the municipal problems carefully. He remarked that the Collectors, in spite of their busy schedule, should be enthused to take interest in the development of municipal administration within his district. Especially where the Directorate did not have any field officers, the Collectors could play an important role in controlling, supervising and guiding the municipal bodies.

Another speaker dwelt on the situation in Punjab. He remarked that the Deputy Commissioner should not be dissociated from the municipal affairs, and he was very much against undermining the authority of the Deputy Commissioner. The Deputy Commissioner is empowered to suspend the resolution of a municipality, he has the emergency power also; he can direct the municipal committee to do certain things. The speaker felt that although the Deputy Commissioners and the Sub-Divisional Officers were very busy persons, it would be unfortunate if they failed to take active interest in the municipal problems. Some of the powers such as the sanctioning of budgets, etc., should, however, be given to the Deputy Directors belonging to the Directorate of Municipal Administration. The speaker said that the Deputy Commissioner should be in overall charge of the district and the officers of the Directorate working in the fields should serve under him. But since the Deputy Commissioner was very busy, detailed supervision could be undertaken by the Deputy Directors and by the Sub-Divisional Officers. Another participant said that the position of the District Magistrate *vis-a-vis* the local bodies needed to be carefully considered. He wanted to know how supervision and control over the municipal bodies were exercised in countries where district administration of the Indian type does not exist.

In reply one speaker pointed out that in some of the African countries where the district administration was introduced by the British, the system of administration had since been changed by replacing the old district official by a political appointee. He remarked that district administration in India is a legacy of British colonial administration. Even in British colonial administration, it was the coloured colonies where district administration flourished. One participant intervened to say that even today, district administration was necessary and the Collector could be a useful field agency to help and control the municipal bodies. He felt that the Director of Municipal Administration should primarily be concerned with guidance and assistance to the municipal bodies and not with control and supervision. Another participant drew the attention of the seminar to the nature of Continental Administration. He remarked that Britain did not have the district administration of the Indian type, whereas in Continental Europe such arrangement could be found. Referring to

the situation in the Scandinavian countries, the speaker said that the Provincial Governor in Sweden, for instance, was still possessing all the formal powers of control and supervision over the local authorities, but in actual practice these powers were very rarely exercised. In fact the Swedish Governor was more a bridge between the Central Government and the local bodies than a controlling authority. In England, the speaker continued, when the Labour Government wanted to develop the Regional Economic Planning in 1964, the Ministry of Housing and Local Government thought it fit to constitute six regional offices of the Ministry. These regional offices are uniform in pattern and each office has a principal regional officer who is of the rank of an assistant secretary, and under him there is a team of experts such as architects, planners, etc. The function of this regional machinery is not to control and supervise the municipal bodies but to help them solve their various problems. The regional officers are advisers and consultants to the municipal authorities. The speaker remarked that the district administration in India grew up under peculiar circumstances, but after the inauguration of constitutional democracy we were faced with a dilemma. On the one hand, the local self-governing authorities have to be encouraged to develop as local representative institutions; on the other hand, district administration which stood in the way of the full blossoming of local government could not be totally extinguished.

Another participant dwelt on the relationship between district administration and the municipal authorities. Bringing the analogy of Centre-State relationships, he observed that just as the State governments were in no mood to tolerate the Centre's intervention in State subjects, municipal authorities could take the same posture and criticise State control and supervision over their activities. He remarked that many a time the State departments would think that the municipal authorities were not efficient, and the departments could, by controlling the municipalities, ensure efficiency in municipal administration. He remarked that efficiency should not always be our goal. Democratic institutions had their own intrinsic value. He was of the opinion that local functions should be left with the local bodies and they must be allowed maximum operational freedom. Our Central and State governments, he said, were getting weakened because

our local government was not strong. He concluded that local government could not be strengthened by threatening their existence; a more positive attitude was needed to encourage the healthy growth of municipal self-government.

The next speaker remarked that we should look into the major functions of the district administration. He referred to the problem of law and order and police administration and judicial administration in the district. Apart from these, there were other welfare and development functions. The speaker said that the district administration had a positive role to play inasmuch as it had not merely to control the local bodies but also to give them positive assistance and guidance. He observed that the need for interference would be much less if there was a systematic endeavour to strengthen local government through timely advice and guidance. He also referred to the situation in France where the prefect in a Department, much like our District, was in-charge of supervision and control of local authorities. He continued that since municipal bodies were elected by the people their autonomy must be safeguarded. The main problem was to use the district machinery for the purpose of the development of local government, and the structure of district administration should be looked at from this point of view. He concluded that perhaps the time had not yet come when we could do away with district administration altogether.

Another participant objected to the French analogy put forward by the previous speaker, and he maintained that since our local government was largely modelled on the British pattern we would have to ensure that our municipal bodies were allowed to function with a measure of autonomy. He admitted that local bodies at the moment could not function without the help of the District Magistrate. Referring to the Delhi situation, the speaker observed that the Delhi Development Authority could get all the police help to carry out the demolition of unauthorised structures, but this was not true of the Delhi Municipal Corporation. That is why, the speaker said, in many Western countries the police was also entrusted to the care of the local bodies. He remarked that if the local bodies in our country were to function properly, then they must be given all the powers and resources. Another participant drew the attention of the seminar to the recommendations made by a Committee in Uttar Pradesh which suggested the

constitution of a board at the state level for the purposes of control and supervision of the local bodies. The speaker mentioned about his experience in some of the African countries such as Kenya and Zambia and observed that at the district level, things were not as bright in those countries as they were visualised by the politicians. Referring to the position of the District Magistrate, he maintained that the District Officer was too busy and had to rely on his subordinates. Hence, whatever new functions are assigned to him should be as restricted as possible. The speaker was in favour of the extension of the democratic elements in district administration. Another speaker said that the role of the District Magistrate in controlling and supervising the local bodies should be considered from the standpoint of the need of the local authority itself. He observed that a large body like a municipal corporation could be allowed to function without much interference, but smaller municipalities were very much dependent on the help and advice of the district authorities. He admitted that in the present situation the District Magistrate might appear to be a very odd sort of a man, but he was there as a legacy of history; if he would be taken out of field administration, there might be a vacuum for decades to come. One participant felt that district administration stood in the way of the full development of the local self-governing bodies. He suggested that there should be a local government board at the State level presided over by the Minister in-charge of local government, which alone should control and supervise the local bodies; all other intermediate controlling authorities should be abolished.

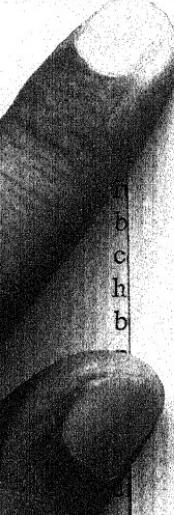
Defining the position of the District Magistrate, one speaker observed that the District Magistrate could not be dispensed with at the present moment. He said that Centre-State relationship could not be equated with State-Municipal relationship. He pointed out that the State governments' activities were controlled in many ways. The Auditor General was there, the specialised departments such as Finance Department, Law Department, etc., were there to control and help the State government. Referring to the municipal institutions he observed that the municipal authorities did not even have the expert knowledge to frame their budgets properly and manage their finances and administration efficiently. Under these circumstances, he felt that the district machinery could be utilised to tone up municipal administration.

The speaker pointed out that many a time the local bodies would go beyond their powers which needed to be looked into and corrected by the District Magistrate. He also referred to the problem of maintenance of law and order for which the District machinery was extremely useful.

The concluding speech of the seminar was delivered by Shri Hans Raj Gupta, Mayor of the Delhi Municipal Corporation. The Mayor opened his speech by observing that he was sorry for not being able to be present in the earlier sessions; so he did not know what transpired in those sessions. Still, he said, the discussions that he could hear in the afternoon, was very interesting. He remarked that the relationship between the State governments and the municipal authorities was a controversial subject. The States have been trying to interfere with what is thought to be 'local sphere' of activities. On the other hand, he remarked, the municipalities were finding it very difficult to discharge their obligatory duties. He referred to the inadequate financial resources of the municipalities. In his opinion to enable the municipal authorities to discharge their obligatory responsibilities the State governments must offer them adequate financial and administrative assistance. This, he said, necessitated some amount of control by the State government. The Mayor admitted that perhaps a certain amount of State control was necessary, but the purpose of control should be to encourage the growth of local self-governing institutions and not to stifle them. An attempt should be made to make our local self-governing institutions blossom as really autonomous organs of government, from where future politicians for the upper level governments would emerge. He remarked that unless the local bodies at the grass-root level were given free play in the administration of local functions, the quality of politicians at the higher levels would not be of a high standard. The Mayor observed that the municipal councillor had to work hard because the people today would like him to do many things for them. In his opinion, there should be as little control over the activities of the municipalities as possible because, the constituents themselves would expect the local bodies to deliver the goods. Initially, there might be some mistakes, but we should allow the municipalities to make small mistakes said the Mayor. In this connection, he referred to the differences in the political composition of governments at different

levels. This would sometimes lead to certain complications. He remarked that local self-government worth the name must be autonomous and the Councillors should be given the freedom to run the business of municipal administration as freely as possible. He observed that too many of the Councillors, this business of managing governmental affairs was a new thing. He conceded, however, that some controls and checks should be there. Supervising authority must not try to take away the powers of the municipal authorities. Drawing attention to the problem of supersession, he observed that the Bangalore Corporation had been superseded and the people of Bangalore were not given a chance for quite some years to re-elect their corporators. That, he felt, was a wrong approach. In the end, the Mayor thanked Prof. Mukharji and the Indian Institute of Public Administration for inviting him and giving him the opportunity to express his ideas in the seminar.

Prof. Mukharji, on behalf of the Institute, expressed his heartfelt thanks to the Mayor for having agreed to preside over the concluding session. He also thanked all the participants in the seminar for taking keen interest in the subject and making the deliberations successful.



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APPENDICES

APPENDIX A
LIST OF PARTICIPANTS

<i>Name</i>	<i>Designation</i>
1. Shri B. S. Manchanda	Commissioner, Delhi Municipal Corporation, Delhi.
2. Shri Balraj Khanna	Deputy Mayor, Municipal Corporation of Delhi, Delhi.
3. Shri D. S. Misra	Secretary, Local Self-Government Department, Delhi Administration, New Delhi.
4. Prof. A. K. Bhattacharjee	Indian Institute of Social Welfare & Business Management, Calcutta.
5. Shri E. C. P. Prabhakar	Secretary, Rural Development & Local Administration Department, Government of Tamil Nadu, Madras.
6. Shri N. L. Mathur	Administrator, Municipal Council, Alwar.
7. Shri L. R. Mago	Officer on Special Duty, Government of Haryana, L. S. G. Department, Chandigarh.
8. Shri C. D. Cheema	Director of Local Bodies, Punjab, Chandigarh.
9. Shri Banwari Lal Kukkar, I.A.S.	Secretary, Government of Punjab, Local Self-Government Department, Chandigarh.
10. Shri B. R. Vohra	Commissioner & Secretary to the Government of Uttar Pradesh, Municipal (A) Department, Lucknow.
11. Shri P. Sen	Director, Municipal Administration, Government of Assam, Shillong.

- | | |
|---------------------------|---|
| 12. Shri A. Nabi | Director of Municipal Adminis-
tration, Government of Tamil
Nadu, Madras. |
| 13. Shri S. S. Naidu | Director of Municipal Adminis-
tration, Government of Kerala,
Trivandrum. |
| 14. Shri Hans Raj Gupta | Mayor, Municipal Corporation
of Delhi, Delhi. |
| 15. Shri Yaikunth Shastri | Mayor, Surat Municipal Cor-
poration, Surat. |

APPENDIX B
WORK PROGRAMME

MORNING SESSION : MAY 7, 1970

- Inauguration by : Dr. J. N. Khosla, Director,
Indian Institute of Public Ad-
ministration, New Delhi
Papers presented: Legal Basis of Municipal Go-
vernment : Dr. S. N. Jain
Discussion by participants:
Chairman: Shri Balraj Khanna

AFTERNOON SESSION : MAY 7, 1970

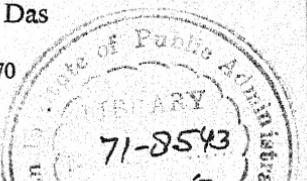
- Papers presented: (i) State Agency for Municipal
Supervision : Dr. Mohit
Bhattacharya
(ii) State Machinery for Mu-
nicipal Supervision : Dr. R. B.
Das
Discussion by participants:
Chairman: Shri Yaikunth Shastri

MORNING SESSION : MAY 8, 1970

- Papers presented: State Functional Departments
and Municipal Bodies : Dr.
T. R. Tewari
Discussion by participants:
Chairman: Dr. R. B. Das

AFTERNOON : MAY 8, 1970

- Concluding Session: May 8, 1970
Discussion by participants
Chairman: Shri Hans Raj Gupta



Going into the causes of this state of affairs, a fact that stands out is that in a highly centralised development planning, the urban self-governing institutions are neither associated with the formulation of the plans nor are their needs and problems reflected adequately in these, considering that among them they account for one-fifth of the population of the country. Whether in developing the planning strategy, in laying down the targets or in allocation of resources the focus has been largely on the operational activities of the Government all along the line from the Planning Commission, the Central Ministries down to the State Governments. In asserting that "district plans are only rural plans", the Rural Urban Relationship Committee adds pertinently that the "District Five Year Plans are exclusively rural development plans and do not provide for the planning and development of urban areas..... the ad hoc allotment of funds in the State Plans were not necessarily related to the overall and comprehensive development needs of the towns and cities".

Take for instance the National Malaria Eradication Programme where the entire vulnerable population at risk was intended to be protected through 393 units each covering 1 to 1.25 million population. In the very elaborate and extensive programme mounted for this purpose, through the State Governments, requiring a widely varying series of activities in the attack, consolidation and maintenance phases, the availability of the necessary knowhow and resources to meet the obligations on the part of the municipalities was more or less taken for granted. The result is that "urban malaria" is plaguing the

programme now and has come in the way of the achievement of the national target.

In the case of small pox eradication programme, again, one had reason to expect a better showing by the Corporations and Municipalities, considering that these deal with more compact populations and have an organised machinery for vaccination already in existence.

An analysis of the data on mortality and morbidity from smallpox in the Corporations and major Municipalities shows, however, that among them they accounted for 11% of the total cases in the country in 1969 as against 9.7% in 1967. Part of the explanation for this lies in sufficient account of the competence and resources of the urban local bodies not having been taken in formulating and implementing the programme. It is reported that while by far and large the vaccinator/population ratio was better in the municipal areas than was deployed for the national programme generally, the performance suffered on account of inadequate supervisory staff and by a multiplicity of functions assigned to the vaccinators.

The supervision and guidance available at the highest technical level in the municipal hierarchy has also been of an indifferent quality. The wholetime Health Officers, where employed, do not necessarily have public health qualifications and in the case of the smaller municipalities, function only on a part-time basis.

In both categories, a host of administrative and other routine duties prevent their effective participation in supervisory and controlling functions.

There has been a shift from the use of State Health Cadre officers towards direct recruitment to the individual posts of health officers. A feeling of insecurity and availability of limited career prospects has tended to lower the quality of recruits. Pay scales are not attractive. With rare exceptions, a cadre of municipal employees has not come into existence.

All this has led to a weakening of the closer liaison and ties with the State Health Departments which existed earlier. To add to this, the expanding activities undertaken by the Governments have found the State Health Departments officers so pre-occupied, that their interest in municipal health affairs has been only of a fire-fighting type. With the cessation of an emergency situation requiring a more direct involvement of the State Health agencies, conditions are usually allowed to revert to the old routine, leaving little permanent impact.

Technical guidance and support in the matter of long-term planning of health services and in the day to day activities of the municipalities has not been forthcoming from the State Health Departments in a form and manner readily acceptable to these self-governing institutions.

The Corporations and Municipalities have their own problems and constraints which determine the objectives of their health programmes. That the required consonance between these and those set up by the Health Departments, has not been always achieved is due to many reasons. It is assumed that the Municipalities would fall in line with national,

regional or State objectives or targets without adequate care being taken to find out as to how the priorities involved fit in with those of the municipalities concerned. In many cases, there is no suitable machinery in existence for making a dialogue between the two parties possible, to facilitate the development of a community of outlook and approach. The Municipal health officers are not "cultivated" to the extent necessary. The Municipal personnel have a secondary priority in the training programmes developed and offered by the State Health Departments. In the periodical meetings of the district and other health officers of States, the attendance of Municipal health officers is not required, even though they are responsible for the health of a sizeable portion of the population at nodal points in each State.

In addition to this, as already stated earlier, the availability of the necessary resources and technical competence is more often than not, taken for granted. With the increasing pace of urbanization, plagued as the majority of the Corporations and Municipalities are with problems of unregulated growth, the gaps between the needs and resources are continuously widening. Reluctance to tap new sources of revenue coupled with a poor husbanding of the existing ones makes economy imperative and the first victim is generally the already poor health service.

The situation may be said to have developed, therefore, on the basis of a relationship where the role of leadership and enlightened guidance on the part of the State Health Department has not been played as actively as might reasonably be expected, on the

one hand, and on the other there has perhaps been the lack of a sense of "belonging" on the part of the Municipal Health Services, which continue to occupy at best a peripheral place in the larger scheme of things.

That this is due not to a lack of thought given to this matter, is clear by the proceedings of high level conferences and reports of many committees set up from time to time. That the expected coordination and interplay has not come about to the required extent is due to the inadequacy of the operational measures instituted towards the end in view. A question that may pertinently be asked in this context is that if the provision of basic civic amenities is the primary function of a local authority, how far the policy making levels in the State, in the fields of education and health, which constitute the essence of the civic needs, influence the processes of local self-Government? Has their involvement and participation had the primacy which is called for or is it secondary to the legal and administrative set up necessary to regulate the functioning of a machinery set up for this purpose? What are the working relationships of the Local Self-Government Departments, where they exist separately from the Health Departments, with the latter? To what extent are the Health Departments involved in policy and programme formulation or do they only act as advisers when and if such advice is asked for?

Granting the need for a single controlling agency at the State level, a closer and more live association of the Health

Department with such an agency is essential. As long as the two departments agree on this, the machinery to be set up for this purpose would have to be adapted to the local situation and any universal formula may not be feasible. Any such arrangement should, however, vest the State Health authority with a status which will be respected by the Municipal agencies apart from what is provided in the legal provisions.

It needs to be recognized on the other hand, that statutory and executive action by itself cannot be relied upon to bring about the desired change. What can be done to make the Health Departments more concerned and outgoing in developing a more active, continuous and constructive relationship with the Municipalities? While on the one hand the administrative re-organisation of the Health Directorates in the State and the increasing diversification of activities brought about by massive national programmes has added heavily to the loads carried by most of them, on the other, no programme director can afford to allow islands of low achievement to mar the scene.

If a procedure requiring all programme chiefs to deal with their counterparts in the Municipalities may become a cumbersome expedient, the problem is important enough to justify a senior officer in the Health Directorate being assigned the responsibility of liaison with the Municipalities and to serve as a two-way channel of communication. It should be one of his duties to see that the viewpoint, needs and problems of Municipalities are taken into account

in developing long and short range health plans at the State level, that the Municipal bodies are kept posted in advance of the part they will be expected to play and that they get a rightful share in the allocation of resources for State-wide health activities, consistent with their statutory obligations and entitlements. If in the recent years, the Ministries at the Centre have found it necessary to set up special cells or appoint officers to look after the needs of the Union Territories, there seems to be no reason why the States should not be equally, if not more, concerned with finding ways of doing the same for their constituents standing more or less on a parallel relationship with them.

There has been a considerable spurt in training activity in recent years, inservice, orientation and refresher. While most local bodies have neither the resources or opportunities for organising such training on their own, they have not been encouraged sufficiently or provided incentives to avail of or benefit from the State or regional training programmes. This area deserves greater attention at least in the field of health, than it has received. Besides, to foster a feeling among the Municipal Health executives of being honoured partners in the raising of the health standards of the country, they should be made welcome in conclaves where problems of health administration and planning are reviewed and discussed in the States.

Viewing the situation from a national angle and making allowances for the extremely varied and complicated set up at the

State and local levels in different parts of the country, the approach to this subject in this note has necessarily been in rather general terms. It is intended mainly to focus attention on some of the more critical areas and to throw up ideas and suggestions which would provoke a constructive discussion.

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Not for Publication

BACKGROUND PAPER

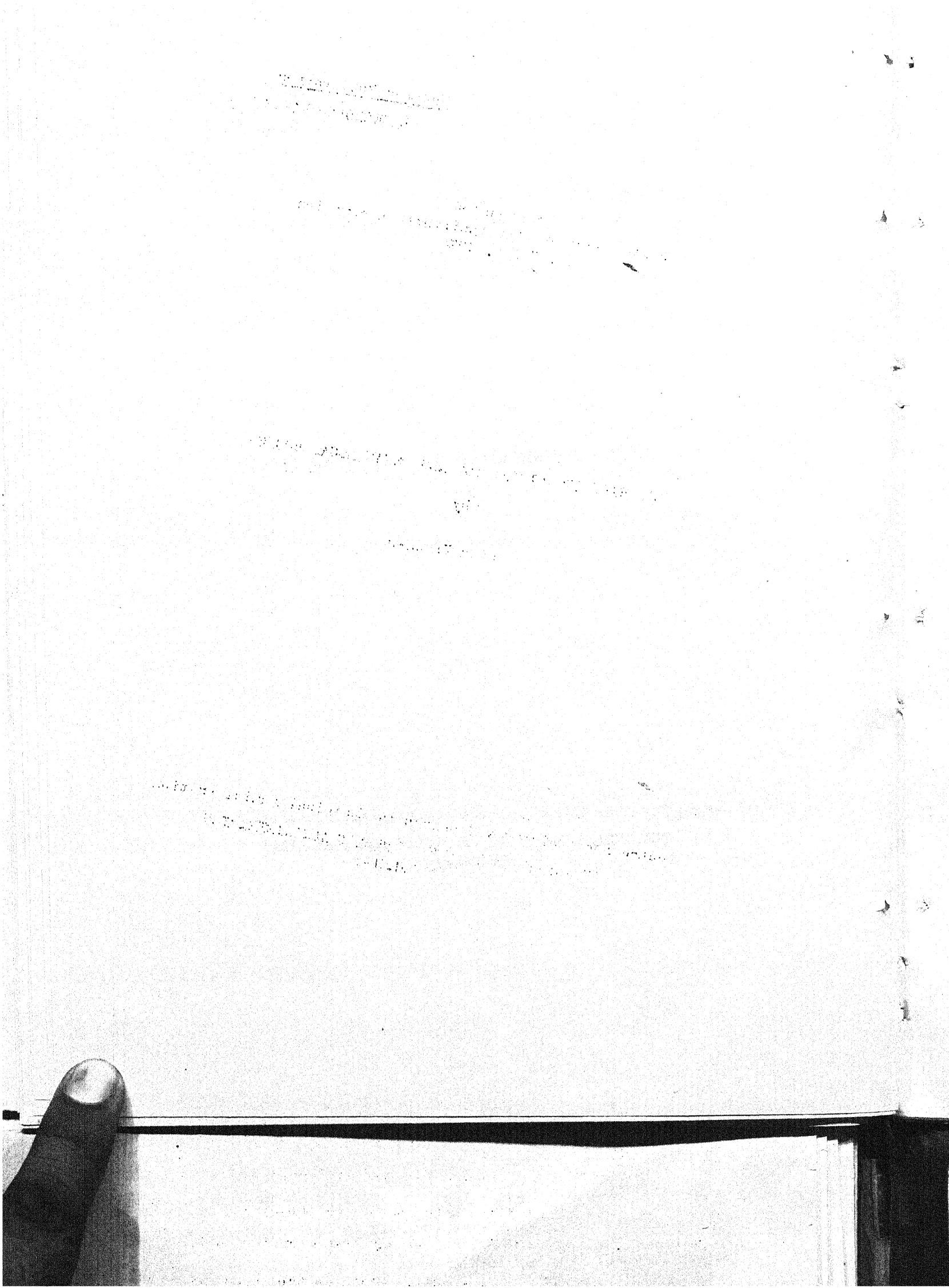
Seminar on
State Machinery for Municipal Supervision
May 7 & 8, 1970

DISTRICT ADMINISTRATION AND URBAN LOCAL BODIES

by

Gian Prakash

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THE INDIAN INSTITUTE OF PUBLIC ADMINISTRATION
NEW DELHI-1



DISTRICT ADMINISTRATION AND URBAN LOCAL BODIES

The concept of the district as the territorial unit of administration dates back to the days of the East India Company. As the Company changed from a mere trading concern to become the Crown's agency for the governance of India, its trading agent was transformed into the collector of land revenue and the District Magistrate with the primary function to maintain law and order. He was in fact the most important single executive functionary of the British Crown in India. Gradually as the problems of public health, education and other socio-economic functions including famines, floods and other natural calamities, pressed for solution, departmental officers such as the Civil Surgeon, the District Health Officer, the Public Works Executive Engineer, the District Inspector of Schools and later the District Agriculture Officer, Cooperatives and other officials appeared on the scene. But the District Magistrate continued to be the Captain of the team. Although, he is no longer the monolith of the old days, he continues to the present day to be the symbol of the very presence of Government in the District. No Department of the Government hopes to achieve anything in the district without his active assistance and cooperation. As the man on the spot, and as the residuary of Government authority, he takes decisions and acts on behalf of the Government in an emergency when the rest of the Government machinery is unavailable or unable to act due to sheer physical limitations of communications and mobility.

It is in this context that the place of local self government in district administration has to be viewed. Local Self Government is the self governing part of the district administration in the sense that it implies:

- (a) vesting in a corporate body powers of taxation and performance of functions by statute instead of an administrative delegation;
- (b) democratic and representative character of that corporate body.

The beginning of municipal bodies in the latter half of the nineteenth century provided for the first but not the second essential of local self government. The establishment of local bodies was actuated by consideration of tapping local sources of taxation for raising funds to provide for purposes of police, conservancy, public works and other social services of a very limited character, by associating local leading men of influence and prestige with the District Administration. Nevertheless the District Magistrate was to continue to be in command as the Chairman and the executive head of these early municipal councils, constituted of men largely nominated on his recommendations. A resourceful District Officer saw in this statutory transfer of certain powers the opportunity of meeting the manifold civic needs by mobilising local resources through taxation, raising subscriptions and pressing for grants in aid from the Government. The decision had no doubt to be taken by a majority of the Council but with officials and

"respectable" yes-men as members, the District Magistrate had no difficulty in getting his agenda adopted. The District Magistrate made the decisions himself about the provision of public road, schools, dispensaries and other local amenities and utilised the agency of the district officials such as the Executive Engineer, the Civil Surgeon, the Inspector of Schools, etc., to ensure the execution of the programme.

The Ripon Resolution of 1882 emphasised the role of local bodies as instruments of political education and training grounds for democracy. But the District Officer was keen on results in the form of roads, markets, health and education facilities which were far more indicative of the success of his administration than the futile exercise in political education of the small elite. There was no doubt an increasing use of the ballot box for electing representatives to the municipal councils but even quarter of century after the Ripon Resolution the picture of local self government in India was still, in many ways, that of 'a democratic facade to an autocratic structure'.^{*} The District Magistrate continued to be in full control and the concern of the non-official and elected member was "confined to resistance to fresh taxation and to furthering the interests of their own proteges amongst the employees".

The report of the Decentralisation Commission, 1909 and

Tinker - The Foundation of Local Self Government in India, Pakistan and Burma - page 70.

the new wave of political activity in the country during the period of the First World War, however, led to significant changes in the organisation of urban local bodies. An important event was the passing of the U.P. Municipalities Act, 1916, which provided for 75% of the members being elected and for the first time the Chairmanship was to pass on to an elected non-official. With the coming of the Montague-Chelmsford of 1919, urban local bodies were progressively placed under popular control. The District Magistrate and the whole team of District Officers were automatically separated from the management of municipal affairs. It did not, and could not, however, mean a total break with the district administration. On the other hand, the introduction of full self government in the local sphere was accompanied by a number of restrictions and controls. District Magistrate was vested with statutory powers as an agent of the Provincial Governments and apart from the statutory powers, its advice was always sought by the Divisional Commissioners and the Provincial Governments in deciding all matters relating to the direction and control of municipal bodies.

The nature of control exercised by the District Magistrate is not uniform for all urban local bodies. There are in the country today 25 municipal corporations, about 1500 municipalities, 164 Notified and 327 Town Area Committees. Town Areas are virtually entirely the charge and responsibility of the District Magistrate and he exercises extensive control on its administrative and financial working often through his Sub Divisional Officers.

On the other end are the corporations with elaborate administrative and technical machinery and the extensive powers vested in the Municipal Commissioner, who is generally (and particularly in the major corporations), very senior officer of the Government. The municipal corporations were originally set up in the Presidency town of Bombay, Madras and Calcutta, which constituted separate and distinct territorial entities from the districts with a Chief Commissioner of Police and Presidency Magistrates in charge of law and order and administration of justice. These towns as headquarters of Government functioned directly under its supervision and control and when city corporations were set up, the administrative responsibility was vested in an officer of the Government with the Mayor, elected annually, as the titular head. The checks and safeguards that came to be introduced in municipal legislation consequent upon the withdrawal of the District Magistrate from the position of the chief executive-cum-chairman, were not considered so necessary in the case of corporations. Direct Government control was almost completely abrogated, particularly in Bombay, and when in 1949 the affairs of the Calcutta Corporation touched an all-time low, the State Government had to bring about special legislation to dissolve it followed by an Investigation Commission and new Corporation Act in 1951. State Governments reserved to themselves wider powers of control in respect of corporations that have been set up in over twenty district towns since Independence. In most cases even the powers of dissolution and supersession have been retained. But practically everywhere the

corporations deal directly with the Government, eliminating any interference by the District Magistrate. The conduct of elections, the disposal of cases of prosecution under municipal laws, traffic regulations, acquisition of land, realisation of dues as arrears of land revenue, wherever necessary and the like, continue, however, to be the responsibility of the District Administration.

Outside the Corporation cities, the District Magistrate exercises wide powers in respect of municipalities by statute or by delegation and as principal adviser to the Commissioner or State Governments in all matters requiring a decision by the respective authorities. There are some variations in different States but, by and large, the ultimate position in all States is practically the same.

Most Municipal Acts to the present day vest the Collector and District Magistrate with the power to enter on and inspect any property, works or institutions under the management and control of the municipality, to call for and inspect any records and documents and to obtain any information, return, statement, account or report on the working of the municipality. He can require the municipality to take into consideration any objections or remarks that he may make in this regard. Often he has the power to hear appeals against decision of the board or executive officers in respect of grant of licences, regulation of trades and markets, assessment of taxes and other appeals including those in disciplinary matters. The primary considerations of law and order has also led to the Collector being given the power to suspend the execution or prohibit

the doing of anything which is about to be done or is being done by or on behalf of the municipality or in pursuance of an order or resolution of the municipality, if such an act is likely to cause injury or annoyance to the public or lead to a breach of peace or is in any way contrary to law. Such an order is usually subject to a review by the State Government. In any case of emergency the Collector can also provide for positive execution of work in the interests of health or safety of the public and the Collector may direct the payment of all reasonable expenses of executing such works to be paid from the funds of the municipality.

As the channel of correspondence between the municipalities and the Commissioner and/or the Government, the District Magistrate has vast opportunities of influencing the working of the urban local bodies. His comments and recommendations on a host of matters such as the constitution of municipalities and changes in their boundaries, municipal rules and bye-laws, imposition of taxes and alteration in the existing rates, the annual budget, grants and loans, appointments requiring confirmation or sanction of State Government, etc., carry great weight with the Government. In the event of any action to remove the member or chairman or the dissolution or suspension of the municipal council for abuse of power or persistent neglect of duty, the burden of making inquiries, obtaining explanation of the municipal body and ultimately of administering the superseded municipality falls generally on the District Magistrate.

Last but not the least, the District Magistrate carries enormous influence in the public on one side and functional Departments of the State Government on the other. No Chairman of the municipal board can go very far in ensuring the smooth and effective functioning of the municipal administration and improvement of civic services without the support and co-operation of the District Magistrate. Most of the medium municipalities lack adequate technical staff and equipment and have to depend on the departmental agencies of the Government which can be mobilised only with the help of the District Magistrate. He is also responsible for overall coordination of local activities and bringing about some equation between the urban local authorities and the rural areas.

It is, however, a fact that the District Magistrate in the midst of his multifarious duties and increasing pressure of work is not able to devote adequate attention to the affairs of the urban local bodies, while different District Magistrates have been known to have taken active interest in the promotion of medical and educational institutions. The main concern of most of the District Officers is the over-riding consideration of law and order. It is only under extreme circumstances affecting public interest or interests of different departments of the Government that may be brought to his notice that the District Magistrate intervenes in securing any modifications in municipal decisions. By and large the municipal bodies are allowed to muddle their way through till a breaking point is reached resulting in the drastic remedy of supersession.

The affairs of urban local bodies have been becoming more and more complex with the rapid pace of urbanisation and the District Officers cannot be expected to deal with the whole problem of the urban local authorities. In the matter of other departments of the State Government such as Agriculture, Cooperation, Industries, Education, Welfare, etc. the District Magistrate is constantly assisted and advised by departmental officers at the district level. The urban local bodies seem to function in isolation from the rest of the district administration. Except in a few States, there are no Regional or District Inspectors of Urban Local Bodies.

During the last decade following the programme of urban community development and the establishment of Panchayati Raj institutions, most of the time the district administration has been devoted to the rural areas. The departmental officers at the district level are also the officers of the Zila Parishads and so are their counterpart subordinate officers at the level of the Block Samiti. The district plans have been more or less exclusively the rural plans. The urban local bodies have been left completely out of the planning process during the first three Plans. The Third Plan did envisage bringing at least cities with a population of a lac or over organically into the process of Planning, but in the absence of any coordinated machinery for a balanced urban-local development, it has not been possible to achieve this objective. The absence of coordinated rural-urban area planning has resulted in perpetuating rural-urban

differences. Problems of education, medical relief, provision of various social services as well as the development of employment opportunities have to be viewed in the overall context of progressive smooth transition from the rural to the urban. This can be possible only if the district administration is oriented to common problems of urban and rural authorities devising their solution through area planning and development. There must be an administrative machinery that can devetail the programmes of the urban local authorities with the rest of the district in the interest of coordinated development.

BAC KGROUND PAPER

NOT FOR PUBLICATION

Seminar on

State Machinery for Municipal Supervision
(May 7 & 8, 1970)

PATHOLOGY OF STATE CONTROL OVER MUNICIPAL
ADMINISTRATION IN PUNJAB - A PROGNOSIS

by

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NEW DELHI.



PATHOLOGY OF STATE CONTROL OVER MUNICIPAL
ADMINISTRATION IN PUNJAB - A PROGNOSIS

Ever since Annexation, municipal administration has existed in Punjab in some form or the other. In its perfunctory stages, committees of townsmen were formed to administer the surplus of the fines raised by cesses or duties for watch and ward purposes. This embryonic system worked steadily but it lacked the essentials of municipal government, being hinged by excessive state control so much so that even the municipal finance vested with official trustees.

Repulsion against this type of suffocation resulted in vigorous reforms and in 1850, a more regular form of municipal administration was introduced in Simla and Bhiwani and about twelve years later, the headquarters of districts were formed with regular municipalities, with committees mostly elected, invested with control over local affairs and power to regulate taxation. In 1866, serious doubts arose as to their legal status and personality and as to the validity of the octroi tax. Consequently the first Municipal Act was passed in 1867 and was later renewed for a year in 1872. The attempt at rationalisation necessitated a new enactment in 1873 and in 1884 a fresh Municipal Act was placed on the Statute Book. The government had to reconcile the democratic aspirations of the people (especially after Ripon's Resolution) without losing sight of administrative efficiency and imperial paternalism. In 1891 was passed an Amendment Act, which reformed the system of taxation and provided for a simple form of municipal administration. Though the avowed policy of the

government was decentralization and to regard local institutions as "an instrument of political and popular education", yet no serious attempt was made to lessen the state control. Amendments of 1891 Act followed in 1896, 1900 and 1905 and ultimately it was replaced by Punjab Municipal Act III of 1911 which is the basis of municipal set up even today. It is very pertinent to mark the intention of the mover of the Bill for 1911 Act, 'The object kept in view has been to retain the provisions of the existing Act as far as possible only altering them where experience has shown that difficulties existed which needed to be solved and adding such provisions as experience and progress showed to be advisable, giving the fullest powers to the committee to manage their own affairs combined with necessary powers of control from without: and also to make use of provisions which have been adopted with success in other provinces and in other Acts.'¹

Ever since this enactment has been in vogue many revolutionary changes have been incorporated in it before and after Independence but the provisions relating to state control still persist giving an impression that Government treats decentralization not as sacrosanct but as "a device to aid the achievement of the ends of government."²

1. For Statement of objects and reasons, See Punjab Gazette, 1910, Part V, p.145, Emphasis added.

2. For a detailed discussion of this aspect please refer to "Decentralisation for National and Local Government", published by the Department of Economic and Social Affairs, United Nations, 1962, pp.5-22.

Genesis and Rationale:-

Municipal Committees being infra sovereign bodies³ created by the State Government, the very word control signifies a type of subordination. Unfortunately these bodies are not only victims of nostalgic attitude by the government bureaucracy but also the people have a tepid confidence in their capacity to deliver the goods. Local government institutions are a replica of the higher authorities and Government being one and indivisible the authority exercised by them over certain localities and in certain specified matters is only a delegated authority.⁴ It pre-supposes the supremacy of a higher authority who is supposed to exercise supervision so that local bodies perform their duties in a legal and rational manner. It is therefore said, "complete autonomy of local bodies would spell anarchy."⁵ The achievements of local government have not been very reassuring and it may be due to a number of reasons but a too rigid and faulty administrative control does contribute to its failure. There is no denying the fact that most of the municipal gains are "considered political spoils with an all-pervasive impunity, defying considered judgement, purposive planning and the large interest of diffusion of civic amenities."⁶ Mostly the legal powers

3. S. Hames, Martrie, The Structure of Local Governments throughout the World. (The Hague, 1961, p.2, Intra being used as denoting below or 'beneath'.

4. R. Argal, Municipal Government in India, (Allahabad, 1960,) p.147.

5. William O. Hart, An Introduction to the Law of Local Government and Administration (London, 1957), p.7.

are numerous but not constructive. There are wide variations in State-local relations, in some respects there is excessive

interference and in others the control amounts to non-

level to intervention. Between the two extremes i.e. where the local intervention.

government is completely free, autonomous and independent of

Central Government e.g., Brazil and where it is entirely

subordinate to the Central Government, i.e., France, the

local bodies have not achieved the best results. Therefore,

it is imperative that state control is to be justified and

more so because (a) the city is discharging gyroscopic

functions these days and the matters which are regarded as of

"municipal interest" become with the course of social develop-

ment, "of interest to the State as a whole", (b) local

authorities are legal creations of the State, (c) for the

homogeneous development of all the areas, coordination by

the State is needed, (d) there is not much of technical skill

available at the local level whereas the State Government being in touch

with a "larger area has greater chances and a permanent body

of professional experts." (e) Transference of wide sphere of

responsibility postulates control especially when unlike

U.S.A. the problem of federation in India has been a "process

of devolution of powers by the larger units to the smaller

ones,"⁸ (f) finer favours State intervention due to the

following reasons (i) local authorities are liable to be

deficient in knowledge, owing to the comparatively small ran-

7. K.T. Shah and G.J. Bahadurji (Quoted): Constitution, Functions and Finances of Indian Municipalities, London, p. 129.

8. Indian Taxation Enquiry Committee, 1924-25.

of facts with which they are familiar, (ii) there is a need of external control to maintain a good standard of services because mal-administration may ruin health, peace, security, education, transport etc., (iii) powerful interests may work against the local community-work may be got done through bribery, (iv) the central authority, to secure the national well-being supplies the money, and of course it requires a control over the expenditure.⁹ In this regard the Taxation Enquiry Commission felt that it is the responsibility of the State to see that local bodies are efficiently, organised, that they perform their functions properly and that they take adequate part in the development of the country....the purpose of state control should be the development of local self-governing institutions with efficient instruments of administration, capable alike of formulating policies and executing them.

Panorama of State Control

The legislature bestows general powers on the state government to frame Rules, Regulations and Bye-laws to regulate and control the administration of the local authorities.

The State Government can penetrate into local autonomy

(a) Administratively when the Government finds the administration of the municipality is deteriorating and needs toning up, -it can extend the Punjab Municipal Executive Officers' Act 1931 to that municipality. Detailed rules, Orders, regulations and instructions are issued regarding the

9. H. Finer, English Local Government (London, 1950), p.295-296.

day to day working. The State has some tutelary powers over services, the government department being entrusted to look to the efficiency of the services as mentor, guide, philosopher friend and encourager". Argal beautifully sums up this power of control as "by means of comparisons, comments and explanations etc. through annual reports, resolutions and general or special memoranda, it is able to bring home the expert advice to various municipal councils. By means of commissions, committees and enquiries or by dispassionately watching the efforts of new legislation the State Government is able to suggest new policy regarding their working and powers. As a ready source of information on all aspects of municipal administration; it is able to guide municipal councils directly and collectively."¹⁰ Government has also the power of approval in relation to (a) alteration of areas; (b) administrative schemes, (c) bye-laws, (d) fees and tolls. In regard to public works, the sanction of plans and estimates is necessary. It is the State Government which sanctions the imposition of a tax. Then there is the power of inspection and to make enquiries though most of this control is exercised through the Regional Directors and Deputy Commissioners. If it appears to the government that a committee has made default in performance of a duty imposed on it, it has the power to fix the period for performance of duty. In the case of an emergency, the government may provide for execution of a work or act.

10. R. Argal, op.cit. p.143.

The Committees are also required to furnish returns and statistics on the prescribed forms and to submit periodical reports on their working. (b) The Legislative control consists in the legislation for municipalities being done by the State legislature and the power is often delegated by the latter to the executive to frame rules and regulations under the Municipal Act. These rules sometimes restrict or amplify the scope of local powers granted by the legislature. The Government is also empowered to give final sanction to regulations and bye-laws. Whereas these rules are welcome as (i) they bring about uniformity in the Municipal administration, (ii) facilitate the work of civil services in carrying out their duties, "but sometimes they are abused and too much interference in the municipal affairs is the result. The State Government alone can change the territorial limits or create a new municipality, therefore though the local legislation is authorised by the State Government, in actual practice it is the Local Self-Government Department which is defact controlling the municipal committees. Major control is the administrative but the two forms i.e., legislative and judicial, according to Prof. Hart "are old and are exercised by bodies not exclusively concerned with the affairs of local authorities nor instituted primarily to consider its problems." (c) Judicial control is exercised under Articles 12 and 32 of the Indian Constitution, whereas the High Courts have been empowered to issue all kinds of writs in order to safeguard the fundamental rights of the individuals against the local

authorities.¹¹ The Courts also, interpret the local laws and declare 'ultra-vires', those laws which contravene other provisions of law. Sometimes the courts are debarred from taking cognizance of the cases relating to the municipal committees on the plea that the action taken is an administrative order. An order passed under Section 172 Bikaner Municipal Act, 1942 similar to Section 238 of Punjab Municipal Act superseding a municipality was regarded as an administrative order and not a quasi-judicial one. It was held that the Government is not bound therefore to hear the municipality before passing the order of supersession in the absence of a provision in the section itself for giving such hearing and the order passed under Section 172 without giving a hearing is not invalidated on that grounds and cannot be challenged under Article 226 of the Constitution.¹² But the Punjab and Haryana High Court held that Section 238 is one of those provisions in which are blended together administrative and quasi-judicial functions. The section does, contemplate administrative act so far as the actual order superseding a municipal committee is concerned, but this order has to be founded, on judicial appraisal of the facts and circumstances on which the Government comes to the conclusion that a given municipal committee is incompetent to perform or has persistently made default in performance of duties imposed on it by

11. In a judgment of the House of Lords in Ridge vs. Baldwin 1962 (2) All ER66: 1964 A C40, it was held that in a fit case where the right of liberty or property of any citizen is prejudiced by an order which may not be strictly political, the powers of the court can be invoked.

12. A.I.R. 1953, Raj., 149.

or under the Act.¹³ Again it was held that there appears to be cast a duty on the State Government to act in accordance with the principles of natural justice while coming to an objective finding on some objective material placed before it which should justify the supersession of a municipality. When an action of this kind, has to be taken it is necessary that the municipality concerned should be taken into confidence and associated with the inquiry which is likely to lead to its supersession.¹⁴ (d) In the sphere of Finances, the sanction of the State Government is necessary for proposals of taxation, budget and raising of loans imposition, abolition or reduction of taxes.¹⁵ The State Government also arranges for annual audit of accounts. Grants in aid are also paid to the local bodies as a measure of control,¹⁶ as the grants are subject to proper maintenance of service by local bodies. Such a financial control has widely been supported by many authorities.¹⁷ Indian local government is not short

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13. Suraj Parkash Vs. State of Punjab, Civil Writ No.42 of 1967, para 15.
 14. The Municipal Committee, Kharar Vs. The State of Punjab, AIR 196 Pb.430(V54 Cl22), para 36.
 15. Report of the Decentralization Commission, Vol,2, p.225
Mr.H.D. Taylor said, 'if the government are supposed to exercise any control and to have any care of the rate-payer, then....the Government should have some idea of how the money is spent."
 16. Punjab Administrative Report for the year 1930-31 observed "A type of financial misdemeanour which closely affects Government is the not uncommon failure of committees to expand government grants on the subjects for which they have been sanctioned." p.51.
 17. G. Montague Harris, Local Self-Government in different countries: Local Self-Government Institute, Bombay,1956, pp.20-21.

of opportunities for raising autonomous revenue. What appears to be wrong is a general lack of responsibility, unwillingness to raise tax rates, graft and inefficiency in collection."¹⁸

There is a fear that the councillors may misuse the

authority,¹⁹ if more powers are given but this attitude of mistrust is not only ill-founded and we have to repose more confidence and respect in our elected representatives. We should have an ultimate faith in the wisdom of the people and the democracy is there to bring out the best if not today than in due course of time. We must adopt the policy of "wait and see."

Malaise of Supersessions:-

Of all the powers of control that Government has, "the power to supersede is a sledge hammer type of power."²⁰

The Indian Statutory Commission observed "where spur and rein were needed, the Ministers were given only pole axe."²¹

U.P. Local Self-Government Committee was strongly against supersessions.²² In a note submitted by R.K. Sidhwa, he

18. Ursula Hicks, Development from Below (Oxford, 1961) p.151.

19. About One important committee it is reported that its proceedings resemble those of a debating club rather than those of an administrative body, and one result is sometimes the failure of this committee to pay its bills in spite of having ample funds at its disposal. Punjab Administrative Report, 1924-25, p.115.

20. V. Rao, A Hundred Years of Local-Self Government in Assam (Calcutta), 1965, p.520.

21. Report of the Indian Statutory Commission, 1930, para.351.

22. Report of the Local-Self Government Committee, Uttar Pradesh, 1938, para. 40.

observed that nearly 85 per cent of the local bodies today are invariably superseded by provincial governments on the various grounds of inefficiency and mal-practice.²³

The idea of supersession was mooted by the Britishers when they wanted to prove that Indians are incapable of administering their affairs satisfactorily.²⁴ In the present changed context, it is still supported because there are factions, personal bickerings and jealousies in many local bodies, with friction, dishonesty and intrigue prevailing. The supersession of the municipal council is only a suspension of such body for a limited period and the pre-requisites for superseding a municipal committee are (a) when a committee becomes incompetent to perform its duties under this or any other Act. (b) when a committee persistently makes default in the performance of its duties. (c) When a committee exceeds or abuses its power.²⁵ The reasons for superseding a committee are given in the same notification in which the supersession is affected. Mr. Justice K. Subba Rao enumerated three preliminary conditions for the exercise of the power, (a) the committee is competent to perform the duties imposed upon it. (b) the state government considers that a general improvement in the administration of the municipality is likely

23. Proceedings of the first Local Self-Government Municipal Conference, 1948, p.121.

24. Punjab Administrative Report, 1901-1902 observed that there are many committees "in which the want of harmony, obstructureness and incompetence of the committees become most marked." pp. x222.

25. Section 238.

to be secured by the appointment of a servant of the Government.

(c) An order stating the reasons therefor.²⁶ The supersession is seldom a hasty step and normally a show cause notice is given to the Municipal Committee requiring explanations in regard to lapses in the discharge of its duties. As for instance

in Suraj Parkash Vs. State of Punjab and others,²⁷ the Government gave a show cause notice to the Municipal Committee under Section 238 of the Punjab Municipal Act requiring explanations in regard to 18 instances of default on the part of the Municipal Committee in discharge of its duties and disobedience of Government orders. After considering the explanation submitted by the Municipal Committee the D.C. conveyed to the President of the Municipal Committee the decision of the Government, not to supersede the committee for the time being. It was added that the Committee should mend its way. About two years thereafter another show cause notice was issued by the Punjab Government through the Deputy Commissioner to the Committee under Section 238 of the Act.

In this notice 33 specific charges were enumerated to which the Committee was expected to reply. But no reference to the charges contained in the earlier notice was made. This time again after considering the explanation of the committee, the Government decided not to supersede the committee, but a stern warning to the committee to improve the working was conveyed to the committee. Sometime thereafter an order superseding the

26. Radhe Sham Khare Vs. State of Madhya Pradesh (1959)
1 Mad L.J. (Sec) 5.

7. Civil Writ No.42 of 1967, para 17.

Municipal Committee was passed by the Government. It was held that the replies to the show cause notice served on the Municipal Committee had already been considered by the Government and the charges were found unsufficient to sustain an order of supersession. The Committee was entitled to an adequate opportunity to show cause against supersession. The order passed without affording the committee an adequate chance to explain its position was invalid. Whereas in another case Om Parkash vs. State of Haryana, where a show cause notice was issued to a Municipal Committee as to why it should not be superseded and in reply there to the Committee furnished explanation to the said notice which was considered and the government gave Six months to improve its state of affairs and before the expiry of 6 months and without serving a fresh show cause notice the committee was superseded. It was held, that it would have been proper if the Government had served a fresh show cause notice so as to enable the Committee to explain its position as the same developed after rendering their explanation. Dissolution on the other hand only relates to the council. The Government can direct that the Council be dissolved with effect from a specified date and be reconstituted either immediately or later but it must be reconstituted within a period of 2 years from the date of dissolution. The notification dissolving the Council is laid before the State legislature. On the date fixed for dissolution

28. Civil Writ No.70 of 1967 Punjab Law Reporter
Vol.LXX-1968, p.276.

all the councillors vacate their office. During the interval, functions are performed by such persons as the Government may appoint. The Government would be entitled to the assets and subject to all the liabilities of the Council. Supersession means all the members of the Council including the chairman and vice-chairman vacate their office, and their functions are performed by a person appointed by the State Government and the assets and liabilities would be transferred to the State Government. Dissolution is an expensive process and upsets the local administration. While supersession on the other hand teaches nothing. The difference between the two is ignored by the State Government. Although grounds for both actions may be the same, there are two different processes with different consequences. Dissolution is termination of the Council and electing a new one but supersession is suspension of the Council and placing entire control in a special officer appointed by the Government. One penalizes the councillors only, the other electorates also and may be dissolution stems from lack of confidence in the competence of the councillors while supersession for that of the electorate.

It may be of interest to point out that in Punjab there is no provision of dissolution while in Bombay both dissolution and supersession have been provided for. This power to supersede has rarely been used in Punjab, from 1963 to 1966 only 11 Municipal committees out of 175 were superseded and at present three are under suspension.²⁹ Whenever

29. There are at present 5 notified area Committees and 100 Municipal Committees in Punjab.

Municipal Committee has been superseded in Punjab, mostly it has been termed as incompetent to perform certain functions but whether a particular committee is competent or not is hedged by many limitations for (a) municipal council may be very competent in performing some functions and quite incompetent in performing other functions, (b) competency of a single council independently assessed may be different than when it is assessed in relation to other councils. Moreover the target fixed by the State Governments may be too ambitious. This method of supersession on grounds of competency may be valid when right principles to assess Competency are evolved and applied.

The mal-administration may further depend upon the lapses on the part of (a) Individual councillors, (b) The President or his assistants, (c) The executive officer or the secretary, and (d) Municipal council in its collective capacity

Generally there is failure of the Government to pinpoint the responsibility squarely and normally committee as a whole is punished for the fault of one or the other. In a writ petition it was held that vague charges, such as corruption, favouritism abuse of power and violation of rules etc., are wholly insufficient for the purpose of constituting adequate opportunity of hearing, in conformity, with the rules of natural justice, which require adequate hearing to be given to the party to be proceeded against.³⁰ Local institutions are also influenced by time and tide because they are the

30. Suraj Parkash Vs. State of Punjab Civil Writ No.42 of 1967. para 20.

'product of the soil' and the 'political climate' at the national level. Due to the predominance of elective principle, vices and virtues of a representative body also percolate in them. The elected councils i.e. plural executive are responsible to the local electorate for the management and development of the services in their limits of operation. Supersession have, it is widely believed brought about marked changes and improvements in administration in most of the cases and it may be due to the better control and unity of command under a single executive i.e. Administrator. Whereas some form of control cannot be ruled out, therefore, Rural-Urban relationship Committee felt that extreme form of control should be applied rarely and as a last resort after all means of advice and persuasion have been exhausted. They "must be treated as powers held in reserve for chastening the local administrations and not for putting an end to their existence."³¹ Further appropriate standards and well thoughtout criteria should be laid down that should apply to all local bodies. The Committee in unequivocal terms deprecated the supersession of some municipal committees for inordinately long periods. Sometimes in the face of persistent defaults and general negligence of the Committee, the Government inspite of its reluctance is

31. Vol.I. P.118. The majority view in the Seminar on Municipal Government in India, arranged by the Department of Public Administration, Punjab University, Chandigarh, in 1965 was that there should not be any supersession of municipal councils. Cf. Prof. B.S. Khanna (Ed) Report of the Seminar on Municipal Government in India, (Chandigarh, 1966) p.21.

forced to intervene.³² Holding of a judicial enquiry before taking any such action in the matter is not only cumbersome but also impracticable and inadvisable. There, it has to be conceded that "as far as supersessions and dissolution's are concerned, recourse to them is only taken in extreme cases and although they may be said to defeat the principles of self-government, they have a much higher principle to vindicate, that of guaranteeing better service to the locality."³³

Control Mechanism:-

As regards the machinery through which the State exercises direct or indirect control, there are five agencies, viz. (a) Local-Self Department, headed by the Minister in charge, (b) the Director of Local Bodies is an expert adviser of the government in technical matters,³⁴ (c) commissioners also have certain powers in relation to Class I municipal committees, (d) Deputy Commissioner, (e) The Directorate of Local bodies supervises generally all affairs of local bodies, ensures due observance of the provisions of municipal laws and works through Regional Directors. With a view to maintain a minimum standard of efficiency and proper scrutiny of public funds and grants, the activities and departments of the municipal committee are also subjected to periodical inspections by other departments of the State Government. In sanitation matters, the advice of

32. R. Argal, op.cit. p.156.

33. R. Argal op.cit. p.156.

Though sometimes political considerations are also there.

34. In pursuance of the recommendations of Local Government (Urban Enquiry Committee, 1957) Punjab Government set up a Directorate of Urban Local Bodies in 1966, cf. Punjab Local Government Department memo. No.3285-0111 66/1775, dated April 27, 1966.

the District Medical Officer of Health has to be adhered to, while the Superintending Engineer, Public Health can inspect the water works. The Department of Town and Country Planning is a standing guide and adviser for purposes of Town Planning etc.

Before the setting up of the Directorate of Local Bodies in Punjab, it was felt that the machinery for supervision and control is inadequate and a few years are not enough to assess the utility and impact of the working of the Directorate. The Union Government also plays the role of standard setting, co-ordination and conducting research with a view to inspiring, invigorating guiding, assisting and strengthening the municipal administration to perform its works more effectively. Local Government being a State subject and the state government being not much enthusiastic about improving urban local government, the Central Government is just only a helpless spectator. Due to the changed political scene after the Fourth General Election, the chances of Centre's intervention are very remote. But whatever machinery is available, there is a dearth of expertise and lack of initiative to get the best help from other available sources like Universities. The State Government should pay special attention to attract, recruit or train-able personnel and in this connection the proposal of the Administrative Reforms Commission for creation of "a policy cell" in each Ministry concerned with development programme is welcome.³⁵ Lack of

35. Administrative Reforms Commission Report on the Machinery of the Government of India and its Procedures of Work, Government of India, 1968, p.45.

sense of dedication, everbearing attitude, temperamental mal-adjustment and reluctance to shoulder responsibility on the part of the officials is also partly responsible for the slow movement of the machinery.

Conclusion

The local institutions are not merely nurseries to foster the art of self-government. Their unsatisfactory working suggests that an excessively high degree of control and the absence of the application of it at right points in time may be partly responsible for the lamentable state of affairs. Either these institutions are to be termed as delinquent by nature or excessive paternalism before and after Independence may have been another cause for their poor performances. The general complaint is that the control which is exercised is formal and negative rather than constructive and positive, and that these institutions are becoming nefarious vehicles of minimizing their objectives and consequently neutralizing the processes of development from below. Control in most cases is nothing but a postmortem examination of the ills deliberately, allowed to be committed due to one's negligence or inadvertence. The Punjab Local Government Urban Committee beautifully analysed the defects of the state control as "There are too many checks and balances and little initiative is left with municipal bodies. The dependence on authorities is so complicated that even for small works and schemes, approach of the prescribed authority has to be obtained. The Account Code and Rules have been so designed as to leave

little initiative. The Committees are still groaning under the yoke of official central. The people's representatives are of the view that they are unable to bring into full play local interest and initiative because of the mass control and regulations which hedge local government activity. The present machinery of control with its authoritarian paternalism is a relic of the British Raj which was essentially a Police Raj. Today it is an anachronism. It is inconsistent to combine universal adult suffrage and authority for Government, both at the Centre and in the States with any high degree of regulation, control and interference in local Government institutions. The ultimate success of democratic institutions at the Centre and in the States will depend on successfully establishing and operating virile and really democratic institutions at the local level. While we are in favour of the municipal institution being endowed with the highest degree of autonomy, we also urge with all the emphasis at our command that they must be given active help and guidance. In the State Legislature, as well as at the Centre, complete autonomy is married to continuous advice from the permanent civil services. It is of vital importance that similar advice and guidance should be furnished through the institution of a Directorate of Local bodies.....It would be better if the local government institutions were afforded constant guidance, financial assistance and positive administrative advice."

The Audit control exercised through the Examiner Local Funds Accounts is also defective. The Audit takes place after

year and mostly it is only a test audit, i.e. only two months accounts are subject to examination and the result of this is supposed to apply to the entire accounts of the year as a whole. There is no arrangement for internal audit. The main theme of an internal audit staff is necessary because it will enable local authorities to check receipts and payments for all the months in the year, "to screen and scrutinise all financial transactions, to prevent irregularities in most cases, to dispose of quickly audit notes and to reduce the number of disputes regarding the settlement of audit objections."³⁶

In the end, it may be worthwhile to offer few suggestions which if implemented, may go a long way to streamline the existing procedures. As the new legislation, is at the anvil of the State legislature, it may not be out of place to mention that:

(a) Action in default should be used too frequently and too often. It may obviate the necessity of supersession and dissolution.

(b) Supersession as a method of control should be substituted by the system of Dissolution. The municipality may be dissolved only in extrance cases and that too as a last resort. The maximum period for which a municipal committee can be dissolved should not be more than a year, a period more than sufficient for reconstituting the body.

36. S. Ghosh Local Finance in Urban Areas, (Calcutta, 1964),
p.169-

- (c) The use of such words as "in the opinion of the Government", "May", "wherever it is expedient", etc. are too generalised and vague. The flexibility of their interpretation gives a considerable degree of scope for the Government to exclude the judicial remedies and intervention.
- (d) The relationship between the local body and the State should be one of optimal partnership and cooperation. The ultimate object should be to establish an equal partnership, "The system should begin with a tutor-pupil relationship, should slip into a system of senior and junior partners and finally the system should evoke into one of equal partnership under the overall national objectives and national policies.³⁷
- (e) There should be more of coordination among municipal committees so that they may be able to discuss and solve some of their common problems.
- (f) Press can play a yeoman's role in mobilizing public opinion against too much state intervention.
- (g) The system of inspections and 'watch and ward' should be so efficient as to ensure prompt and systematic notice of defaults and failures followed by appropriate, quick and ready corrective measures. Recurring malpractices or mismanagement must be subjected to expert enquiries to expose and stop them.

It is not too late for us to change our policies and professions of expecting too much from these nascent institutions (they are supposed to be born after Independence). The acute

37. H. Maddick, Democracy, Decentralisation and Development, p.203-204.

problems posed by ribbon developments with an increasing trend towards urbanisation, the city as a modern symbol of industrial growth, citizen's general indolence and apathy, competing demands on resources etc. call upon us to devise and apply ways and means for efficient working of these institutions which are meant to cater to the amenities and needs of the civic population. It is rightly pointed out that "Government control and help should, be not so meticulous or minute as to destroy the autonomy or self-reliance of local bodies. The goal of State effort as well as the purpose of State Control should be the development of local self-government institutions into efficient instruments of administration, capable alike of formulating policies and of executing them."³⁸ The Local Government (urban) Enquiry Committee submitted its report long back in 1957, most of the recommendations have been shelved and some have become out of date, the urban population in Punjab is anxiously waiting the changes which Punjab Municipal Bill of 1963 may introduce to consolidate and overhaul the existing municipalities.

What we need today is a positive and constructive approach and a continuous search not for palliatives to alleviate the symptom which are gaining strength but to overhaul the local system as such to give us institutions full of vigour, freshness and creativity.

38. Report of the Taxation Enquiry Commission,
(1953-54), Vol.III, p.374.

ANNEXURE

Relevant Sections dealing with State control over
Municipal Committees in Punjab under Punjab Municipal Act, 1911:-

A. Powers of the Director, Local Bodies:

- (a) In the case of municipalities of the second and third class See 15, See 29(1), See 24, See 38(1), See 38(3), See 41, See 52(2), See 254, See 255.
 - (b) In the case of class I Municipal Committee only See 232, See 235.
 - (c) In the case of all Municipal Committees See 187, See 299(3).
- B. Powers of the Regional Directors. See 31(2), See 231(1) and (2). Powers of Deputy Commissioner under all sections of the Act except for the purposes of the following sections and matters ancillary thereto and also the matters relating to persons by whom estimates of income and expenditure of committees may be sanctioned See 84, See 154-C, 167, 225, See 232, 233 and 235.
- C. Powers of Commissioner. See 24(1) See 42, See 48(1), See 50(1), See 54(2), See 55(1) Section 62(6)(7), See 83, See 84(1), See 121(3), See 154C, See 187, See 192, See 225 (1), See 233, See 234, See 239(1).
- D. Powers of Deputy Commissioners. See 4(5), See 5(2), See 15, See 24(1), See 30(2), See 42, See 48(1), See 50(1), See 54(2), See 55(1), See 62(6)(7), See (79), See 83, See 84(1), See 121(1), See 154(C), See 167(1), See 187, See 192, See 225(1), See 231, See 234, See 233, See 232, See 239(1).

SELECT READINGS

1. Alderfer H.F., Local Government in Developing Countries, (New York, 1964), Ch.VI.
2. Argal R. Municipal Government in India (Allahabad, 1960), ch.VIII.
3. Bhattacharya M. State Directorates of Municipal Administration, New Delhi, 1959, Ch.VI and VIII.
4. Cole, G.D.H.; Local and Regional Government, (London, 1947), Chapter XIII.
5. Drain Geoffrey, The Organization and Practice of Local Government, London, 1966, Chapters III & IV.
6. Eddy, K. An Outline of Local Government Law, 1969, Chapter VIII and XX.
7. Finer, H., English Local Government (London, 1950), Part IV.
8. Hart, William O. An Introduction to the Law of Local Government and Administration (London, 1957), Part II.
9. Hicks, U.K. Development From Below, (Oxford 1961), Chapter XIX.
10. Hames Samuel: The Structure of Local Governments Throughout the World, The Hague, 1961, Part I, Ch. III.
11. Jackson, R.M. The Machinery of Local Government, (London, 1965), Chapter X.
12. Khanna, B.S. Report of the Seminar on Municipal Government in India (Chandigarh, 1966), Chapter VI.
13. Khanna, R.L. Local Government in Punjab, Chandigarh, (1957), Chapter VIII.
14. Maddick Henry, Democracy, Decentralisation and Development, (Bombay, 1963), Ch.IV.
15. Rao, V.V. A Hundred Years of Local Self-Government in Assam (Calcutta, 1965), Part IV.
16. Robson, W., Local Government in Crisis, (London, 1969), Ch. X.

17. Rural-Urban Relationship Committee, 1966, Vol.I.;
Chapter XI.
18. Seminar Papers - Municipal Government in India,
Department of Public Administration, Punjab
University, 1965, Four Papers.
19. Seminar Papers Orientation Course in Urban
Administration, Hyderabad, 1967, Four Papers.
20. Venkatarangaiya, M. Local Government in India,
(Bombay, 1969), Chapter XLI.

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STATE AGENCY FOR MUNICIPAL SUPERVISION IN INDIA

by Mohit Bhattacharya

During the British regime a policy on local self-government used to constitute an indispensable part of a general policy on India's constitutional development. The intention of reforms was to offer the educated elite an opportunity to take part in the management of local administration, and this was taken to be a necessary precondition of expanding future area of Indian participation in government and administration. Historically, Lord Ripon's resolution of 1882 is regarded as the first clear and coherent policy statement on the introduction of local self government in India.

Inspite of the noble philosophy of Lord Ripon, local self-government could not strike root in those days, as the circumstances were still not conducive to the growth of self-governing institutions. District administration headed by the District Officer was a formidable state agency operating in full force in the districts. The authoritarian character of district administration proved to be a major impediment to the blossoming of local self-government. Later as Indian political opinion gradually became restive and started demanding radical constitutional changes, important concessions were made in the form of radical reforms in the sphere of local self-government.

In fact the Montagu-Chelmsford Reforms of 1918 selected local self-government as the sphere in which 'steps would be taken first and furthest in the direction of progressive realisation of responsible government in India.' Although Central and

Provincial Governments were reformed to some extent, radicalism in constitutional reform exhibited itself in the field of local self-government. As a result of the Reforms, municipal bodies were left to the direction of a majority elected by a comparatively wide franchise. Resurrecting the philosophy of Lord Ripon, the Montague-Chelmsford report emphasized the importance of educating local citizens through participation in local bodies and recommended the largest possible independence for the local bodies of outside control. One of the principal tenets of reform was to strictly subscribe the radius of official control and to treat local government as 'a vital link in the chain of organisms that make up the Government of the country.'

As a sequel to the Montagu-Chelmsford Reforms, governmental powers at the provincial level were divided into two categories: reserved and transferred. 'Local self-government' was one of the transferred subjects entrusted to the supervision and control of Indian Ministers answerable to the provincial legislatures.

This resulted in the emergence of Local Self Government Department at the provincial level for the control and supervision of municipal authorities and rural local bodies. At the district level the reforms led to an almost complete severance of connection between the municipalities and the District Officer. Previously the District Officer was the official Chairman of the District or Local Board and frequently of one or more municipalities. In fact, the District Officer was an integral part of municipal administration, but the Reforms introduced a new relationship between the Local Self Government

Department and the municipalities without the interposition of the District Officer. The latter remained an agent of the State at the field level bereft of his powers of direct interference in municipal administration.

The organisation of State machinery for supervision and control of municipal administration even today remains almost the same as it evolved out of the Montagu-Chelmsford Reforms of 1918. The next momentous event in the history of constitutional reforms was the federal scheme envisaged in the Government of India Act, 1935. 'Local self government' in the federal scheme was placed in the provincial list. After Independence, when India framed her new Constitution, the location of "Local Self Government" was not disturbed and it was retained as a 'State List' subject.

The only change in the sphere of local self government in post-independence India is the inauguration of a new system of rural self government commonly known as Panchayati Raj.

To give special attention to the development of the new institutions, almost all the State Governments constituted a separate department for the control, promotion and guidance of Panchayati Raj institutions. This, however, marked the beginning of a duality in State level organisation with regard to supervision of local self government. Henceforward, two independent departments started operating at the State level, one dealing with municipal affairs and another with the Panchayati Raj institutions.

Organisation of State Machinery

In this paper we are concerned with the organisation of State machinery for the control and supervision of municipal authorities. A general practice in India in State administration is to have a Secretariat Department charged with specific functions. The Secretariat, which is essentially a policy-framing organ, is presided over by a Minister who is answerable to the legislature. Below the Minister, the Secretariat Organisation is headed by a permanent Secretary with Deputy and Assistant Secretaries working under him. With the bifurcation of State level administration on local government after the emergence of Panchayati Raj, the general pattern is that in almost all the States a Secretariat department deals with municipal government and administration. There are, however, variations in the organisation of these Secretariat departments. For instance, some States such as Punjab, Rajasthan and West Bengal have each a Department of Local Self-Government dealing exclusively with municipal affairs. Again, States like Andhra Pradesh, Gujarat and Maharashtra have each a multi-functional department at the State level with municipal government as one of its many charges. At the Secretariat level the multi-functional Department in Andhra Pradesh is called the Health, Housing and Municipal Administration Department. Similarly, Maharashtra has constituted a combined Department known as the Department of Urban Development, Public Health and Housing. The corresponding department in Gujarat is the Panchayat and Health Department which combines both Panchayati Raj and

Municipal Government, although the latter does not appear in the name of the Department. No doubt there are obvious advantages in gathering a number of allied functions under a particular department. Especially, under Indian situation where public health functions loom-large in local administration there is advantage in combining municipal administration and public health functions in one Secretariat department. This is exactly what States like Andhra Pradesh, Gujarat and Maharashtra have tried to do.

In recent times there has been a growing concern about streamlining the State machinery for control, supervision and guidance of municipal bodies. Many of the problems faced by municipalities are of such nature that these need to be attended to very promptly. Municipal government in India, in spite of its age, has never been known for efficiency. The weaknesses of municipal institutions are due to various causes, which, however, would entail a separate study altogether. The specific statutory provisions coupled with the debilitating condition of the municipal bodies have encouraged increasing control and intervention of the State government in the affairs of the municipalities. In such circumstances the State would naturally require a suitable machinery which would be swift-moving and come to the timely rescue of the municipalities. The Secretariat department has been looked at as a policy-framing organ unable to be in constant touch with the needs of the municipalities. Since the District Officer has virtually been dissociated from municipal government and

administration since the days of Montagu-Chelmsford Reforms, it has been felt that a specially constituted State executive organ would be of considerable help both to the Secretariat organisation at the State level and to the municipal authorities at the field level. Also, the District Officer has his hands full of numerous functions relating to revenue administration, law and order and development administration. In some States there has been a practice of using the Local government inspector for conducting occasional inspections of municipal affairs. For instance, States like Bihar, Madras and West Bengal have appointed such inspectors who go round the districts and look into the working of municipalities. But the local government inspector is a jack of all trades and master of none. Inspection is not conducted on functional lines and its spirit has often been inquisitorial rather than advisory and promotional. Moreover in the absence of any clear idea about its role and purpose, inspection is a perfunctory exercise. It bears fruit in the form of a general report which is promptly kept in cold storage by the Secretariat department.

Directorates of Municipal Administration

General dissatisfaction with the existing mechanism for State supervision and guidance of municipalities, need for relieving the congestion of work at the secretariat level and the utility of a well-equipped State machinery which would act as a bridge between the municipalities and the State-level administration, prompted many of the State Governments in India to create in recent times a special agency known as the Directorate of Municipal Administration. Incidentally, it

is common practice in Indian State Administration to create a Directorate just below the Secretariat organisation in order to undertake operative responsibilities with regard to public works, public health, education and so on. So far, six State Governments have set-up Directorates of Municipal Administration to aid and assist the Secretariat departments and to keep in constant touch with the municipalities and meet their urgent needs. The oldest among them is the Rajasthan Directorate which came into being as far back as in 1951, when the Inspectorate of District Board and Municipalities was converted into the Directorate of Local Bodies. Ten years after, Andhra Pradesh constituted its Directorate of Municipal Administration, and the next State to follow suit was Kerala which set-up its Directorate in 1962. In both these southern States the Directorates followed in the wake of the introduction of Panchayati Raj institutions and the consequent bifurcation of State level administration with regard to local authorities. The year 1965 witnessed the birth of two more Directorates in the States of Gujarat and Maharashtra respectively. The Maharashtra Municipalities Act, 1965 contains a specific provision for the appointment of the Director of Municipal Administration (Section 74), much like the Andhra Pradesh Municipalities Act of the same year (Section 63). The Punjab Directorate was set-up in 1966. Subsequently, the Uttar Pradesh State Government appointed a Director of Municipal Administration, but the organisation of the Directorate is still to be finalised in that State. Two other States, namely

Assam and Madhya Pradesh are actively considering the establishment of similar Directorates following the general trend in State administration in the country.

The organisation of the Directorate of Municipal Administration differs from State to State. Of the six States that have set-up full-fledged Directorates, only two, Andhra Pradesh and Punjab, have created regional branches of the Directorate. In Andhra Pradesh, apart from the Director who heads the Directorate, there are two Regional Directors posted in two regions - north and south, into which the entire State has been divided. There are ten districts in each region and an attempt has been made to evenly distribute the workload with regard to municipal supervision and control between the two Regional Directors. Although Punjab is a much smaller State than Andhra Pradesh, it has established three regional offices of the Directorate each headed by a Regional Deputy Director. Obviously, the purpose of having regional branches of the Directorate is to maintain an independent machinery of the Directorate in the matter of inspection, supervision and guidance of the municipal bodies. But the remaining four States have not created similar regional field organisations. Kerala is the smallest of the six States with only 28 municipalities to look after. Hence, it is not difficult for the Kerala Director along with the headquarters staff to keep in touch with the municipalities, and supervise and guide them. Two of the States, Gujarat and Maharashtra, have tried to make use of the district administration and thus avoid creating

its own independent regional branch offices. In the matter of making use of the district machinery for the purposes of municipal supervision and control, the case of the Rajasthan Directorate is of special importance. Like its counterpart in the two States of Andhra Pradesh and Punjab the Rajasthan Directorate earlier had its independent regional field machinery consisting of five regional inspectors. In 1962 the Rajasthan Government decided, mainly on the grounds of economy, to abolish the regional machinery and delegate powers of field supervision of municipalities to the District and Sub-divisional officers. Thus, it appears that the services of the District Officer, who was debarred under normal circumstances from exercising control and supervision over the municipalities since the Montagu-Chelmsford Reforms of 1918, have once again been requisitioned. Even in Andhra Pradesh and Punjab where regional branches of the Directorates have been established, the District Officer has been endowed with a number of statutory powers relating to control and supervision of municipalities. It is clear therefore that State administration with regard to municipal supervision is still in a dilemma as to whom to choose for field-level operations between a regional office and the age-old district administration. At the headquarters, the Directorate in each State is headed by a Director who is assisted by a Deputy or Assistant Director. The purity of separation between the Secretariat and the Directorate has been sought to be observed in only two States namely Andhra Pradesh and Kerala. In the remaining four States, the Director

has been given concurrent Secretariat responsibilities. On the other hand, a full-time Director attending to field-level problems of the municipalities and keeping the State Government abreast of municipal problems, has often been acclaimed as an ideal model. A Director with concurrent secretariat responsibilities it has been alleged, serves neither the municipalities nor the Government. On the other hand, it has been argued that in practice the separation between the Directorate and the Secretariat is an illusion, and there are distinct advantages in making the head of the Directorate also a member of the Secretariat. Of the six States that have full-fledged Directorates of municipal administration, Andhra Pradesh, Gujarat, Kerala and Maharashtra have multi-functional Secretariat departments, and Punjab and Rajasthan have uni-functional local self government departments. It is naturally to be expected that the pull of the Secretariat would be greater in a State having a uni-functional local self-government department. Thus, both Punjab and Rajasthan have given their heads of Directorates concurrent Secretariat responsibilities. In the four other States with multi-functional Secretariat departments the Directorate can be expected to function in comparative ease and isolation; for, the Secretariat department will be too busy to handle its heavy workload because of the combination of a number of functions under its charge. In any case, the differences in organisation are worth keeping watch and at a later date it will be interesting to study the comparative advantages and disadvantages following from the differences in

the organisational patterns.

Powers of Directorates

In all the States the Directorates derive their powers by way of delegation. The municipal Acts in India abound in regulatory provisions which serve to strengthen the hands of the State governments in relation to municipal administration.

The newly created Directorates of Municipal Administration have benefited from this statutory position, as many of the important controlling powers of the State have been delegated to them. The various powers of the Directorates can be classified in terms of their relationship with specific aspects of municipal administration such as organisation, personnel administration, financial administration and general administration. The last group includes the emergency and default powers. To cite a few instances of the Directorates' powers regarding municipal organisation and constitution, in Kerala the Director has been appointed as the Election Authority for municipal election purposes. The Punjab Director has been delegated the State power to approve the election of Municipal President and the Rajasthan Director has been given the extraordinary power of removal of municipal councillors in very limited instances. Because of the prevalence of separate personnel system in Gujarat, Maharashtra and Punjab, the Directorates in these States do not enjoy substantial powers over municipal personnel administration. Still, the Maharashtra Director has been empowered to accord sanction to the creation of posts and determine qualifications, and pay and allowances

for certain categories of posts. The Punjab Director has been given the power of according approval to the appointment and removal of the Municipal Secretary, and to compel a municipality to punish any of its employees on the ground of negligence in the discharge of his duties. The Director can even compel a municipality to dismiss an employee. The States of Andhra Pradesh, Kerala and Rajasthan have evolved State-wide unified municipal services, which have naturally increased the powers of their Directorates. The Directors in these three States function as the controlling authorities for different categories of municipal posts. They have been empowered to appoint, transfer and take disciplinary action against particular classes of municipal employees. The Directorates also have considerable powers over the financial administration of municipalities. In this respect the Directorates of Andhra Pradesh and Kerala are the most powerful. The Director in Kerala has the power to direct municipal councillors to modify municipal budget estimates, and in Andhra Pradesh the Director has important sanctioning powers over municipal expenditure. Similar sanctioning powers are also enjoyed by the Kerala Director. The Punjab Director has power to approve budget estimates and reappropriation from one budget head to another. The Directorates of Rajasthan, Maharashtra and Gujarat do not enjoy similar controlling powers with regard to municipal finances. As regards general supervision over municipal administration, the Directors in all the States have been given powers to inspect and supervise municipal property and work, and records and proceedings. Emergency and default

powers are not enjoyed by all the Directorates. In Gujarat and Kerala these powers vest in the State Governments themselves, but the Directors in Andhra Pradesh, Punjab and Rajasthan have been empowered to suspend municipal resolutions, orders and acts in certain cases. The Maharashtra Director has the power to enforce performance of duties in case of default by a municipality. In other States, this default power has been reserved for exercise by the State Governments.

It appears that the Directorates of Municipal Administration which are emerging as a new machinery for exercising control and supervision over the municipalities, have been delegated substantial regulatory powers over municipal administration. The original idea behind the setting up of Directorates was that these would function as friends, philosophers and guides to the municipal bodies. But the nature and extent of powers delegated to them by the State Governments make them more like controlling authorities sitting on judgment on the day-to-day administration of the municipalities. There is also some confusion about the distinction between 'Government' and 'Directorate.' The latter is just an agency of Government and cannot be expected to exercise important constitutional, regulatory and punitive powers, which must remain in the hands of Government itself. Because of a lack of clarity on this point, in some States certain important regulatory powers have been delegated to the Directorates, but in some others such powers have been retained in the hands of the States.

Evaluation

No doubt the Directorates of Municipal Administration are emerging as a new machinery for inspecting, supervising and guiding the activities of the municipalities in India.

To add strength to the current trend, a recent Committee has also recommended the establishment of State Directorates of Urban Local Bodies.¹ Municipal government in India is an old institution which was introduced during the early stages of British rule. Age, however, has failed to bring in maturity, and the image of Indian municipal government has been one of financial poverty, inefficient administration and of general stagnation. Municipal inertia is due to a variety of causes, one of which, and a very important at that, is the failure of the State Governments to provide timely guidance and advice, and necessary financial assistance and technical help and formulate well-thought-out strategies for the development of municipal institutions. The accent of State supervision over the municipalities has been on the negative, restrictive and punitive side. The municipality has always been suspected of being in the wrong and state-municipal relationships have grown up under this all-pervading atmosphere of distrust and suspicion. In such circumstances, if a State agency can really dispel the unhealthy air of suspicion and serve the cause of positive municipal growth and development, such an agency would immediately command the respect of municipalities. But the

1. Report of the Rural-Urban Relationship Committee,
Volume I, Government of India, Ministry of Health and Family Planning, 1966, p.120.

controlling authority and restrictive powers which the newly created Directorates have been delegated would stand in the way of creating an atmosphere of faith and friendliness. Again, the character of municipal legislations in India remaining as it is, there is very little to choose between the District Officer and the Director of Municipal Administration. Both are civil servants appointed by the State Government, and as such any attempt to confer on them powers restrictive of representative municipal government will be resented by the municipal bodies. Inspection, advice, guidance and even informal pressures by civil servants look innocuous; but the delegation of important regulatory powers to a civil servant like the Director is of questionable merit in a democracy. In a Parliamentary system of government the minister in-charge of local-self-government is directly responsible to the legislature for the exercise of his powers of control and supervision over the municipalities. When the minister is delegating governmental powers of supervision and control to an appointed State official the legality of such sub-delegation remains in doubt. Also, it is bound to create political complications to face which the civil servant is not the fit person. The nature of local-self government in India was modelled on the British system and not the Continental one. A new machinery for municipal supervisor has got to be devised in such a way that it may not be violative of the spirit of local-self government. At the same time, it has to be in conformity with the principle of ministerial accountability to the legislature.